

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0560-R

Order No. 25-UI-304911 Reversed ~ Request to Reopen Allowed ~ Merits Hearing Required
EAB Decision 2025-EAB-0560 ~ Reversed and Remanded on Reconsideration

Orden No. 25-UI-304911 Revocada ~ Solicitud de Reapertura Permitida ~
Se Requiere Audiencia Sobre los Méritos

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

PROCEDURAL HISTORY: On May 14, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation (decision # L0010697785). The employer filed a timely request for hearing. On July 9, 2025, the Office of Administrative Hearings (OAH) served notice in English and Spanish of a hearing scheduled for July 22, 2025. On July 22, 2025, ALJ Bender conducted a hearing at which claimant failed to appear, and on July 30, 2025, issued Order No. 25-UI-299056, reversing decision # L0010697785 by concluding that claimant was discharged for misconduct, and therefore was disqualified from receiving benefits effective March 16, 2025. On August 6, 2025, claimant filed a timely application for review of Order No. 25-UI-299056, which was treated by OAH as a timely request to reopen the hearing.² ALJ Kangas considered claimant's request, and on September 25, 2025,

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

² OAR 471-040-0040(6) (February 10, 2012) provides, "The OAH will treat as a request to reopen the hearing any application for review that a party files with the Employment Appeals Board or the Employment Department, where the filing party failed to appear at the hearing that led to the decision on appeal, unless the applicant specifically states in the application that the applicant does not wish to have the case reopened. In the event that the OAH subsequently denies the request to reopen the hearing, it shall return the case to the Employment Appeals Board, which will then proceed to review the merits of the substantive decision. The original application for review shall serve as the basis for the Employment

issued Order No. 25-UI-304911, denying the request as without good cause and leaving Order No. 25-UI-299056 undisturbed. The matter was then returned to the Employment Appeals Board (EAB) for a review of the merits of the substantive decision based on claimant's August 6, 2025 application for review of Order No. 25-UI-299056, per OAR 471-040-0040(6).

On October 3, 2025, EAB issued EAB Decision 2025-EAB-0560, affirming Order No. 25-UI-299056 on the merits of the work separation. Also on October 3, 2025, claimant filed a timely application for review of Order No. 25-UI-304911, regarding the denial of his request to reopen the hearing. On its own motion, EAB has reconsidered EAB Decision 2025-EAB-0560. This decision is made under EAB's authority from ORS 657.290(3).

EAB combined its review of Order No. 25-UI-304911 and its reconsideration of EAB Decision 2025-EAB-0560 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2025-EAB-0580 and 2025-EAB-0560-R).

HISTORIA PROCESAL: *El 14 de mayo de 2025, el Departamento de Empleo de Oregón (el Departamento) notificó una decisión administrativa que concluyó que el reclamante fue despedido, pero no por mala conducta, y por lo tanto no se le descalificó para recibir los beneficios del seguro de desempleo debido a la separación del trabajo (decisión # L0010697785). El empleador presentó una solicitud oportuna para una audiencia. El 9 de julio de 2025, la Oficina de Audiencias Administrativas (OAH) notificó en inglés y español una audiencia programada para el 22 de julio de 2025. El 22 de julio de 2025, la jueza administrativa Bender llevó a cabo una audiencia a la que el reclamante no compareció, y el 30 de julio de 2025 emitió la Orden No. 25-UI-299056, revocando la decisión # L0010697785 al concluir que el reclamante fue despedido por mala conducta y, por lo tanto, fue descalificado para recibir beneficios a partir del 16 de marzo de 2025. El 6 de agosto de 2025, el reclamante presentó una solicitud oportuna de revisión de la Orden No. 25-UI-299056 que fue tratada por la Oficina de Audiencias Administrativas como una solicitud oportuna para reabrir la audiencia del 22 de julio de 2025 a la que el reclamante no asistió.³ La juez administrativa Kangas consideró la solicitud del reclamante para reabrir la audiencia y, el 25 de septiembre de 2025, emitió la Orden No. 25-UI-304911, denegando la solicitud por falta de justificación y dejando la Orden No. 25-UI-299056 sin cambios. Este asunto se presenta ante la Junta de Apelaciones de Empleo (EAB) con base en la solicitud del reclamante, presentada el 6 de agosto de 2025, de revisión de la Orden No. 25-UI-299056,*

Appeals Board's review of the merits of that decision.” Claimant's August 6, 2025 application for review did not specifically state that claimant did not wish to have the case reopened, and the application for review was therefore treated as a request to reopen the hearing.

³ OAR 471-040-0040(6) (10 de febrero de 2012) dice: “La OAH tratará como una solicitud de reapertura de la audiencia cualquier solicitud de revisión que una parte presente ante la Junta de Apelaciones de Empleo o el Departamento de Empleo, cuando la parte solicitante no compareció a la audiencia que condujo a la decisión en apelación, a menos que el solicitante indique específicamente en la solicitud que no desea que se reabra el caso. En caso de que la OAH deniegue la solicitud de reapertura de la audiencia, devolverá el caso a la Junta de Apelaciones de Empleo, que luego procederá a revisar los méritos de la decisión sustantiva. La solicitud original de revisión servirá de base para la revisión de los méritos de esa decisión por parte de la Junta de Apelaciones de Empleo”. La solicitud de revisión del reclamante del 6 de agosto de 2025 no indicó específicamente que el reclamante no deseaba que se reabriera el caso y, por lo tanto, la solicitud de revisión se trató como una solicitud de reapertura de la audiencia.

la cual fue devuelta por la OAH a la EAB para que revisara los méritos de la decisión sustantiva según OAR 471-040-0040(6).

El 3 de octubre de 2025, la EAB emitió la Decisión 2025-EAB-0560, que confirma la Orden No. 25-UI-299056 sobre los méritos de la decisión sobre la separación del trabajo. También el 3 de octubre de 2025, el reclamante presentó oportunamente una solicitud de revisión de la Orden No. 25-UI-304911, en relación con la denegación de su solicitud de reapertura de la audiencia. De oficio, la EAB reconsideró la Decisión 2025-EAB-0560. Esta decisión se toma bajo la autoridad de la EAB según ORS 657.290(3).

La EAB combinó su revisión de la Orden No. 25-UI-304911 y su reconsideración de la Decisión 2025-EAB-0560, según el OAR 471-041-0095 (29 de octubre de 2006). Para fines de seguimiento de casos, esta decisión se emite por duplicado (Decisiones 2025-EAB-0580 y 2025-EAB-0560-R).

WRITTEN ARGUMENT: Claimant submitted a written argument on October 7, 2025,⁴ which contained information regarding why he failed to appear at the hearing. This information is necessary to complete the record because the application for review form that claimant filed as a reopen request did not contain information in Spanish regarding the requirements for requesting to reopen a hearing. EAB has therefore considered it when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). An English translation of the argument has been marked as EAB Exhibit 1 and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, saying why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

ARGUMENTO ESCRITO: *El reclamante presentó un argumento escrito el 7 de octubre de 2025,⁵ que contenía información sobre por qué no compareció a la audiencia. Esta información es necesaria para completar el expediente porque el formulario de solicitud de revisión que presentó el reclamante como solicitud de reapertura no contenía información en español sobre los requisitos para solicitar la reapertura de una audiencia. Por lo tanto, la EAB lo ha considerado al llegar a esta decisión bajo OAR 471-041-0090(1) (13 de mayo de 2019). Una traducción al inglés del argumento se ha marcado como Anexo 1 de la EAB (EAB Exhibit 1) y se ha proporcionado a las partes con esta decisión. Cualquier parte que se oponga a que la EAB tome nota de esta información debe enviar su objeción a la EAB por escrito, explicando por qué se opone, dentro de los diez días posteriores al envío por correo de esta decisión por parte de la EAB. OAR 471-041-0090(2). A menos que la EAB reciba y esté de acuerdo con la objeción, el anexo permanecerá en el expediente.*

The parties may offer new information into evidence at the remand hearing. At that time, the ALJ will decide if the new information will be admitted into the record. The parties must follow the instructions on the notice of the remand hearing about documents they wish to have considered at the hearing. These

⁴ Claimant also filed a written argument on October 3, 2025. The information contained in the October 3, 2025 argument is also contained in the October 7, 2025 argument, and therefore has not been separately considered.

⁵ *El reclamante también presentó un argumento escrito el 3 de octubre de 2025. La información contenida en el argumento del 3 de octubre de 2025 también está contenida en el argumento del 7 de octubre de 2025 y, por lo tanto, no se ha considerado por separado.*

instructions will direct the parties to provide copies of such documents to the ALJ and the other parties before the hearing at their addresses on the certificate of mailing for the notice of hearing.

Las partes podrán presentar nueva información como prueba en la nueva audiencia. En ese momento, el Juez Administrativo decidirá si la nueva información se admitirá en el expediente. Las partes deben seguir las instrucciones de la notificación de la audiencia nueva sobre los documentos que desean que se consideren en la audiencia. Estas instrucciones les indicarán que deben proporcionar copias de dichos documentos al Juez Administrativo y a las demás partes antes de la audiencia a las direcciones que están en el certificado de envío de la notificación de la audiencia.

FINDINGS OF FACT: (1) On May 14, 2025, the Department mailed decision # L0010697785 to claimant's address on file with the Department, an address in Tualatin, Oregon.⁶ The employer then filed a timely request for hearing.

(2) On July 9, 2025, OAH served notice of a hearing scheduled for July 22, 2025. The notice was sent to the same address in Tualatin as decision # L0010697785 had been. Exhibit 3 at 3. Claimant did not receive the notice of hearing. *See* EAB Exhibit 1 at 1. As a result, on July 22, 2025, claimant did not appear at the hearing.

(3) On July 30, 2025, ALJ Bender issued Order No. 25-UI-299056, which reversed decision # L0010697785 by concluding that claimant was discharged for misconduct. Order No. 25-UI-299056 was mailed to the same address in Tualatin that decision # L0010697785 and the July 9, 2025 notice of hearing had been mailed to.

(4) On August 6, 2025, claimant filed a timely application for review of Order No. 25-UI-299056 which was treated by OAH as a timely request to reopen the hearing.

CONCLUSIONS AND REASONS: Claimant's request to reopen the July 22, 2025 hearing is allowed, and claimant is entitled to a re-hearing on the merits of decision # L0010697785 on the work separation. On reconsideration, EAB Decision 2025-EAB-0560 is reversed, and this matter remanded for another hearing to further develop the record.

CONCLUSIONES Y RAZONES: *Se aprueba la solicitud del reclamante de reabrir la audiencia del 22 de julio de 2025, y tiene derecho a una nueva audiencia sobre los méritos de la decisión No. L0010697785 sobre la separación del trabajo. Tras la reconsideración, se revoca la Decisión 2025-EAB-0560 de la EAB y se devuelve el asunto para otra audiencia para obtener más información.*

Reopen. ORS 657.270(5) states that any party who failed to appear at a hearing may request to reopen the hearing, and the request will be allowed if it was filed within 20 days of the date the hearing decision was issued and shows good cause for failing to appear. "Good cause" exists when the requesting party's failure to appear at the hearing arose from an excusable mistake or from factors beyond the party's reasonable control. OAR 471-040-0040(2) (February 10, 2012). The party requesting reopening must

⁶ EAB has taken notice of this fact, which is contained in Employment Department records OAR 471-041-0090(1). Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, stating why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the noticed fact(s) will remain in the record.

state the reason(s) for missing the hearing in a written statement, which the Office of Administrative Hearings (OAH) shall consider in deciding whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3). Under OAR 471-040-0040(2)(a), good cause does not include “[f]ailure to receive a document because the Employment Department or Office of Administrative hearings mailed it to an incorrect address despite having the correct address.”

Claimant filed a request to reopen the hearing on August 6, 2025, within 20 days of the issuance of Order No. 25-UI-299056. Although claimant did not initially include a written explanation for his failure to appear with the reopen request, the record now contains such a written explanation. Based on that explanation, claimant had good cause for failing to appear at the hearing.

Claimant indicated in his statement enclosed with the October 7, 2025 written argument that he never received a copy of the notice of hearing. Notably, the notice of hearing was mailed to the same address of record used to mail decision # L0010697785 and Order No. 25-UI-299056. As such, the notice of hearing was not mailed to the incorrect address, and claimant’s not having received the notice of hearing was not due to his having failed to update his address with the Department. OAR 471-040-0040(2)(a) therefore does not bar a finding of good cause for claimant’s failure to appear at the hearing.

Instead, while the record does not show why claimant did not receive the notice of hearing, it can be reasonably inferred that it was not properly or timely delivered to his address. As this was a factor beyond claimant’s reasonable control which led to his failure to appear at the hearing, claimant had good cause for failing to appear at the hearing, and his request to reopen the hearing is therefore allowed.

Reconsideration. ORS 657.290(3) permits the Employment Appeals Board, upon its own motion, to reconsider any past decision of the Employment Appeals Board, including “the making of a new decision to the extent necessary and appropriate for the correction of previous error of fact or law.”

EAB Decision 2025-EAB-0560 affirmed Order No. 25-UI-299056, which reversed decision # L0010697785 by concluding that claimant was discharged for misconduct. As explained above, claimant has now shown good cause for reopening the hearing on the merits of decision # L0010697785, and is entitled to a re-hearing on the merits of that decision. Therefore, on reconsideration, EAB Decision 2025-EAB-0560 is set aside.

DECISION: Order No. 25-UI-304911 and EAB Decision 2025-EAB-0560 are set aside, and this matter remanded for further proceedings consistent with this order.

DECISIÓN: *Se revocan la Orden No. 25-UI-304911 y la Decisión EAB 2025-EAB-0560, y este asunto se devuelve para procedimientos adicionales de conformidad con esta orden.*

S. Serres and A. Steger-Bentz;
D. Hettle, not participating.

DATE of Service: October 16, 2025

FECHA de Servicio: 16 de octubre de 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-304911 or EAB Decision 2025-EAB-0560 or return this matter to EAB. Only a timely application for review of the order mailed to the parties after the remand hearing will return this matter to EAB.

NOTA: La falta de asistencia de cualquiera de las partes a la audiencia nueva no restablecerá la Orden No. 25-UI-304911 o EAB Decision 2025-EAB-0560, ni devolverá este asunto a la EAB. Solo una solicitud oportuna de revisión de la orden enviada a las partes después de la audiencia nueva devolverá este asunto a la EAB.

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Understanding Your Employment Appeals Board Decision

English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyon.

Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

Khmer

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

Laotian

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

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Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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