

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0658

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On September 17, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to provide information in accordance with the Department's rules, and therefore was ineligible for unemployment insurance benefits effective July 14, 2024 (decision # L0006225474). On October 7, 2024, decision # L0006225474 became final without claimant having filed a request for hearing. On November 21, 2024, claimant filed a late request for hearing on decision # L0006225474.

ALJ Kangas considered claimant's request, and on December 2, 2024 issued Order No. 24-UI-275222, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 16, 2024. On December 9, 2024, claimant filed a timely response to the appellant questionnaire. On February 24, 2025, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 24-UI-275222 was vacated and that a hearing would be scheduled to determine whether claimant had good cause to file the late request for hearing and, if so, the merits of decision # L0006225474. On October 20, 2025, ALJ Micheletti conducted a hearing at which the Department failed to appear, and on October 29, 2025, issued Order No. 25-UI-308722, re-dismissing claimant's late request for hearing and leaving decision # L0006225474 undisturbed. On November 3, 2025, claimant filed an application for review of Order No. 25-UI-308722 with the Employment Appeals Board (EAB).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is claimant's response to the appellant questionnaire, which is necessary to complete the record under OAR 471-041-0090(1)(a). This evidence 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.

CONCLUSIONS AND REASONS: Order No. 25-UI-308722 is set aside and this matter remanded for a hearing on whether claimant's late request for hearing on decision # L0006225474 should be allowed and, if so, the merits of that decision.

ORS 657.269 states that the Department's decisions become final unless a party files a request for hearing within 20 days after the date the decision is mailed. ORS 657.875 states that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) states that "good cause" includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ended.

The request for hearing on decision # L0006225474 was due by October 7, 2024. Because claimant did not file her request for hearing until November 21, 2024, the request was late. The order under review dismissed claimant's late request for hearing, explaining that while claimant was prevented from filing a timely request for hearing due to circumstances beyond her reasonable control due to a delayed delivery of decision # L0006225474, claimant failed to file her late request for hearing within seven days of when the circumstances preventing her timely filing ceased. Order No. 25-UI-308722 at 3. The record as developed does not support this conclusion.

On her response to the appellant questionnaire, claimant stated that she failed to file a timely request for hearing because she "live[s] in rural Oregon and [she] did not receive [her] referral until early October [2024]." EAB Exhibit 1 at 1. Claimant's testimony at hearing indicated similarly. However, during the hearing, the ALJ asked claimant to clarify which decision she was appealing; in response, claimant stated, "They said they overpaid for two months." Audio Record at 5:48. Claimant did not clarify this statement, and the ALJ did not ask any follow-up questions.

Decision # L0006225474, which denied claimant benefits because she failed to provide information to the Department, stated, in relevant part, "Please note if we deny your benefits after we pay them, you will have an overpayment of benefits that you must pay back." Exhibit 1 at 1. The decision did not explicitly assess an overpayment, however, and made no mention of a two-month period. Thus, claimant's above testimony suggests that she may have been referring to a different document entirely, calling into question when, if at all, claimant received decision # L0006225474, the administrative decision at issue in this matter.

On remand, the ALJ should ask claimant to clarify if the document to which she referred in her testimony or on the appellant questionnaire response was decision # L0006225474, or some other document. To the extent that this inquiry shows that claimant had been referring to some other document, the record should be developed to show when, if at all, claimant received decision # L0006225474. Claimant also indicated on her questionnaire response that she filed her request for hearing late because she "had problems with mail and [logging] in to Frances Online." EAB Exhibit 1 at 2. On remand, inquiry should be made as to what these problems were in particular, and how, if at all, they prevented claimant from filing a timely request for hearing and how and when the problems ended. The ALJ should also inquire as to what prompted claimant to file her request for hearing on November 21, 2024, as opposed to some earlier date.

ORS 657.270 requires the ALJ to give all parties a reasonable opportunity for a fair hearing. That obligation requires the ALJ to ensure that the record developed at the hearing shows a full and fair

inquiry into the facts necessary to consider all the issues before the ALJ. ORS 657.270(3); *see accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). Because further development of the record is necessary to decide whether claimant's late request for hearing should be allowed and, if so, the merits of decision # L0006225474, Order No. 25-UI-308722 is reversed and this matter remanded to the Office of Administrative Hearings for another hearing and order.

DECISION: Order No. 25-UI-308722 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: December 5, 2025

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 25-UI-308722 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.

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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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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