

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0744-R

Request for Reconsideration Allowed
EAB Decision 2025-EAB-0744 followed on Reconsideration
Order No. 25-UI-311448 Affirmed ~ Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On October 8, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was denied benefits beginning September 21, 2025 because they were not available for work (decision # L0013250067). On October 28, 2025, decision # L0013250067 became final without claimant having filed a request for hearing. On November 6, 2025, claimant filed a late request for hearing. ALJ Kangas considered claimant's request, and on November 19, 2025 issued Order No. 25-UI-311448, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by December 3, 2025, or to file an application for review of Order No. 25-UI-311448 with the Employment Appeals Board (EAB) by December 9, 2025. Claimant filed an application for review of Order No. 25-UI-311448 on November 22, 2025. Claimant also submitted an appellant questionnaire response on that date to the Office of Administrative Hearings (OAH), but OAH did not immediately forward the appellant questionnaire response to EAB.

On December 12, 2025, EAB issued EAB Decision 2025-EAB-0744, dismissing claimant's late request for hearing without prejudice, subject to claimant's right to request reconsideration and provide additional evidence to EAB regarding the reasons for filing of the request for hearing late. On December 17, 2025, claimant filed a timely request for reconsideration of EAB Decision 2025-EAB-0744. This decision is made under EAB's authority from ORS 657.290(3).

EVIDENTIARY MATTER: EAB has considered two pieces of additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The first piece of additional evidence is claimant's appellant questionnaire response, forwarded by OAH to EAB on December 29, 2025, which has been marked as EAB Exhibit 1 and provided to the parties with this decision. The second piece of additional evidence is claimant's reconsideration request, which has been marked as EAB Exhibit 2 and also 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, 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 exhibits will remain in the record.

FINDINGS OF FACT: (1) Decision # L0013250067, issued on October 8, 2025, stated, “We have **denied** your benefits on this claim beginning September 21, 2025.” Exhibit 1 at 1 (emphasis in original). The decision further said, “You have the right to appeal our decision and request a hearing if you believe our decision is wrong. We must receive your request for a hearing no later than **October 28, 2025.**” Exhibit 1 at 2. (emphasis in original).

(2) On October 8, 2025, claimant received decision # L0013250067 in their Frances Online account and used the account to view the decision. EAB Exhibit 2 at 5.

(3) When claimant viewed decision # L0013250067, they did not initially notice that it denied benefits. EAB Exhibit 2 at 5. Claimant waited two or three weeks after viewing the decision, expecting the Department to approve their claim for benefits. EAB Exhibit 2 at 5.

(4) When claimant failed to receive benefit payments, they checked decision # L0013250067 again and noticed it denied benefits. Claimant also noticed that either listed on the version of decision # L0013250067 viewable in their Frances Online account, or perhaps in a note accompanying the decision on Frances Online, a heading appeared that stated “outcome” and further stated “Denied – Not Claimant Caused – Agency Error.” EAB Exhibit 2 at 5.

(5) When claimant saw the words “Denied – Not Claimant Caused – Agency Error”, they assumed that the Department would “automatically fix” the error and it would not be necessary for claimant to file an appeal of the administrative decision. EAB Exhibit 1 at 3. Claimant waited until November 6, 2025, expecting the Department to act because of the reference to agency error. However, nothing happened.

(6) On November 6, 2025, claimant filed a late request for hearing on decision # L0013250067.

CONCLUSIONS AND REASONS: Claimant’s request for reconsideration is allowed. EAB Decision 2025-EAB-0744 is followed on reconsideration. Order No. 25-UI-311448 is affirmed. Claimant’s late request for hearing remains dismissed.

Reconsideration. ORS 657.290(3) permits the Employment Appeals Board 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.” The request will be dismissed unless it says that a copy of the request was given to the other parties, and unless it is filed within 20 days after the decision the party wants to be reconsidered was mailed. OAR 471-041-0145(2) (May 13, 2019).

EAB affirmed the order dismissing claimant’s late request for hearing, without prejudice, and noted claimant’s right to file a request for reconsideration within 20 days after EAB’s decision was mailed. Claimant filed a request for reconsideration that met the requirements in OAR 471-041-0145. The request for reconsideration is therefore allowed.

Late Request for Hearing. 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.

Under OAR 471-040-0010(1)(b)(B), “good cause” does not include not understanding the implications of a decision or notice when it is received.

The deadline to file a request for hearing on decision # L0013250067 was October 28, 2025. Because claimant did not file a hearing request until November 6, 2025, the request for hearing was late.

Claimant did not establish good cause to extend the deadline to file a hearing request on decision # L0013250067. The available information shows that claimant received and viewed the decision the day it was issued, October 8, 2025. However, claimant did not initially notice that decision # L0013250067 was a denying decision. Claimant waited two or three weeks after viewing the decision, expecting the Department to take action approving their claim for benefits. Claimant eventually checked decision # L0013250067 again and noticed it was a denying decision. However, based on reading a heading that stated “outcome” and further stated “Denied – Not Claimant Caused – Agency Error”, claimant waited longer still to appeal because they believed that the Department would rescind or otherwise “fix” decision # L0013250067.

Claimant did not show that factors beyond their reasonable control prevented them from filing a hearing request by the October 28, 2025 deadline. Decision # L0013250067 plainly stated that it denied benefits and listed the October 28, 2025 deadline to appeal. It was within claimant’s reasonable control to carefully read the administrative decision, and if claimant wished to appeal, file a timely hearing request by the deadline. While the significance of Frances Online displaying the heading “outcome” and the words “Denied – Not Claimant Caused – Agency Error” may have been unclear to claimant, those labels did not contradict that the administrative decision was a denying decision with an October 28, 2025 deadline to appeal. It was not reasonable for claimant to assume that the Department would rescind the administrative decision based on the “Agency Error” label. To the extent that claimant’s assumption about what the Department might do amounted to a failure to understand the implications of a decision or notice when it was received, claimant failed to show good cause for their late request for hearing pursuant to OAR 471-040-0010(1)(b)(B).

Moreover, claimant’s failure to initially notice that decision # L0013250067 was a denying decision and misunderstanding that the Department would rescind or “automatically fix” the decision were mistakes on claimant’s part. However, they were not “excusable mistakes” within the meaning of the administrative rules because they did not, for example, raise due process issues, and were not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

Claimant failed to establish good cause to extend the deadline to file their request for hearing. Claimant’s late request for hearing on decision # L0013250067 therefore is dismissed under ORS 657.875 and OAR 471-040-0010. Accordingly, EAB follows EAB Decision 2025-EAB-0744 on reconsideration, and claimant’s late request for hearing remains dismissed.

DECISION: Claimant's request for reconsideration is allowed. EAB Decision 2025-EAB-0744 dismissing claimant's late request for hearing is followed on reconsideration. Order No. 25-UI-311448 is affirmed.

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

DATE of Service: January 22, 2026

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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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

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

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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