

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0015

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On July 29, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was eligible to receive unemployment insurance benefits from June 12, 2025 through September 2, 2025, a school recess period, because claimant's educational wages were not subject to disqualification during the recess period (decision # L0012094070). On August 18, 2025, decision # L0012094070 became final without claimant having filed a request for hearing. On September 2, 2025, claimant filed a late request for hearing on decision # L0012094070. ALJ Kangas considered claimant's request, and on October 14, 2025 issued Order No. 25-UI-307123, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by October 28, 2025. On November 3, 2025, Order No. 25-UI-307123 became final without claimant having filed a response to the appellant questionnaire or an application for review with the Employment Appeals Board (EAB). On November 7, 2025, claimant filed a late response to the appellant questionnaire with the Office of Administrative Hearings (OAH). On December 9, 2025, ALJ Kangas issued Order No. 25-UI-313493, canceling Order No. 25-UI-307123, re-dismissing claimant's late request for hearing without considering the questionnaire response because it was late, and leaving decision # L0012094070 undisturbed. On December 29, 2025, claimant filed an application for review of Order No. 25-UI-313493 with EAB.

WRITTEN ARGUMENT: Claimant submitted written arguments on December 29, 2025 and January 13, 2026. Claimant did not state that they provided a copy of either of their arguments to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). Additionally, claimant's December 29, 2025 argument contained information that was not part of the record while the matter was pending before OAH, did not show that factors or circumstances beyond claimant's reasonable control prevented them from offering the information into the hearing record as required by OAR 471-041-0090 (May 13, 2019), and was not relevant and material to EAB's determination of whether their late request for hearing on decision # L0012094070 should be allowed. EAB considered only the information received into evidence while the matter was pending before OAH. *See* ORS 657.275(2).

EVIDENTIARY MATTER: Claimant’s appellant questionnaire response was not filed by the date Order No. 25-UI-307123 became final, November 3, 2025. The late questionnaire response was marked for identification as Exhibit 3 but was not considered as evidence by the ALJ and, as such, is not evidence in the hearing record. Claimant did not show that factors or circumstances beyond their reasonable control prevented them from filing the appellant questionnaire response prior to Order No. 25-UI-307123 becoming final. Accordingly, under ORS 657.275(2) and OAR 471-041-0090, EAB did not consider the late appellant questionnaire response when reaching this decision.

FINDINGS OF FACT: (1) On July 29, 2025, the Department mailed decision # L0012094070 to claimant’s address on file with the Department. Decision # L0012094070 stated, “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 **August 18, 2025.**” Exhibit 1 at 2 (emphasis in original).

CONCLUSIONS AND REASONS: Claimant’s late request for hearing is dismissed.

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 # L0012094070 was due by August 18, 2025. Because claimant did not file their request for hearing until September 2, 2025, the request was late. The record does not contain evidence to explain why claimant failed to file a timely request for hearing. Accordingly, claimant has not shown that they had good cause for filing the late request for hearing, and the request is dismissed.

Claimant should note that, even if they had shown good cause for the late request for hearing, their request for hearing would be subject to dismissal because it presents no justiciable controversy. Decision # L0012094070 was fully favorable to claimant, as it did not deny them benefits for the school recess period at issue in that decision. Claimant did not request reversal of any portion of the decision, and alleged no facts entitling them to further relief in this matter.

Oregon courts follow the principle that a review on appeal may only be provided for justiciable controversies. See, e.g., *Gortmaker v. Seaton*, 252 Or. 440, 442, 450 P.2d 547 (1969). A justiciable controversy exists when the interests of the parties to the action conflict with each other, and the appeal will have some practical effect on the rights of the parties to the controversy. *Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995). To show a practical effect on their rights, an appellant must seek “substantive relief” through their appeal. *Krisor v. Henry*, 256 Or. App. 56, 300 P.3d 199 (Or. Ct. App. 2013).

Thus, because a hearing on decision # L0012094070 would have no practical effect on claimant’s rights because the decision did not deny them benefits for the school recess period at issue in the decision and was fully favorable to the claimant, claimant was not entitled to a hearing on that decision. Therefore, even if claimant had shown good cause for filing the late request for hearing, or had filed a timely request for hearing, their request would have been subject to dismissal because it presents no justiciable controversy.

DECISION: Order No. 25-UI-313493 is affirmed.

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

DATE of Service: February 2, 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

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់រដ្ឋនោះទេ បើសិនជាលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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

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