

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0339

Reversed
Late Request for Hearing Allowed
Merits Hearing Required

PROCEDURAL HISTORY: On October 28, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct, and therefore was disqualified from receiving unemployment insurance benefits effective October 5, 2025 (decision # L0013669766).¹ On November 17, 2025, decision # L0013669766 became final without claimant having filed a request for hearing. On November 21, 2025, claimant filed a late request for hearing on decision # L0013669766. ALJ Kangas considered claimant's request, and on February 3, 2026 issued Order No. 26-UI-319132, dismissing claimant's request for hearing as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by February 17, 2026. On February 9, 2026, claimant filed a timely response to the appellant questionnaire. On March 12, 2026, the Office of Administrative Hearings (OAH) mailed a letter stating that Order No. 26-UI-319132 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 # L0013669766.

On March 27, 2026, ALJ Murray conducted a hearing at which both the employer and the Department failed to appear, and issued Order No. 26-UI-325340, re-dismissing claimant's late request for hearing and leaving decision # L0013669766 undisturbed. On April 8, 2026, claimant filed an application for review of Order No. 26-UI-325340 with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On October 28, 2025, the Department mailed decision # L0013669766 to claimant's address on file with the Department. Decision # L0013669766 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 **November 17, 2025.**" Exhibit 1 at 2 (emphasis in original). Decision # L0013669766 disqualified claimant from benefits on the basis of his having been discharged from the employer on October 8, 2025. Exhibit 1 at 1.

¹ Decision # L0013669766 stated that claimant was denied benefits from October 5, 2025 to September 19, 2026. However, decision # L0013669766 should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 5, 2025 and until he earned four times his weekly benefit amount. See ORS 657.176.

(2) Claimant received decision # L0013669766 shortly after it was issued and disagreed with it. At some point prior to November 17, 2025, claimant gave the decision to an attorney who had represented him in a previous matter, intending for the attorney to file a request for hearing on claimant's behalf. However, due at least in part to a lack of funds, claimant did not execute a fee agreement or retainer with the attorney. Additionally, due to an administrative error at the attorney's office, the attorney did not immediately realize that claimant had left the administrative decision with his office.

(3) On November 5, 2025, the Department issued decision # L0013923253, which allowed claimant benefits on the basis of his October 2, 2025 suspension from work from the same employer who was party to the work separation in decision # L0013669766. Exhibit 3 at 6. Decision # L0013923253 indicated a timely appeal deadline of November 25, 2025. Exhibit 3 at 7. Claimant, confused at the issuance of the two decisions, filed a request for hearing on decision # L0013923253 at some point prior to November 25, 2025.

(4) Claimant eventually called the attorney, who explained that he was not representing claimant in the matter of decision # L0013669766, and accepted blame for failing to earlier notify claimant of that fact or file the request for hearing on claimant's behalf. On November 21, 2025, after having spoken to the attorney and realizing that he had not filed a request for hearing on claimant's behalf, claimant filed a late request for hearing on decision # L0013669766.

CONCLUSIONS AND REASONS: Order No. 26-UI-325340 is reversed and this matter remanded for a hearing on the merits of decision # L0013669766.

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 # L0013669766 was due by November 17, 2025. Because claimant did not file his request for hearing until November 21, 2025, the request was late. However, the record shows that claimant had good cause for filing the late request for hearing.

The record shows that claimant timely received decision # L0013669766 and provided it to his attorney's office prior to November 17, 2025, expecting the attorney to file the request for hearing on claimant's behalf. Claimant did not execute a fee agreement or retainer with the attorney, due at least in part to a lack of funds. However, the record suggests that the attorney did not timely respond to claimant's having left the administrative decision with his office, apparently due to a clerical error. Even though the attorney was not representing claimant in this matter, it stands to reason that, had the attorney's office timely processed the decision that claimant had left for them, they would have at least notified claimant that they would not be filing the request for hearing on claimant's behalf or otherwise representing him in this matter.

It was reasonable for claimant to believe, as he did, that the attorney would either file the request for hearing on his behalf, or at least notify claimant that they were not doing so. The record suggests that

claimant's delay in filing the request for hearing on decision # L0013669766 was due, at least in part, to this mistaken belief.

Further, on November 5, 2025, the Department issued another administrative decision, relating to a suspension from work with the same employer who was party to decision # L0013669766. Claimant filed a timely request for hearing on that decision. Because of the similarities between the two decisions and the fact that they were issued only a week apart from each other, claimant was understandably confused by the issuance of the second decision.

Given the attorney's failure to timely notify claimant of the fact that he was not representing him or filing a request for hearing on claimant's behalf, *and* claimant's understandable confusion at the issuance of two separate but similar decisions with different appeal deadlines, claimant's failure to file a timely request for hearing on decision # L0013669766 was an excusable mistake. As claimant filed the request less than seven days after decision # L0013669766 became final, he did so within a reasonable time.

For the above reasons, claimant had good cause for failing to file a timely request for hearing, and filed his late request for hearing within a reasonable time. Claimant's late request for hearing on decision # L0013669766 therefore is allowed, and claimant is entitled to a hearing on the merits of that decision.

DECISION: Order No. 26-UI-325340 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: May 19, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-325340 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

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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