

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0377

Orders No. 26-UI-325748 and 26-UI-327691 Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On February 26, 2026, 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 December 21, 2025 (decision # L0016307497).¹ Claimant filed a timely request for hearing. On March 18, 2026, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for April 1, 2026. On April 1, 2026, ALJ Naylor conducted a hearing at which the employer failed to appear, and issued Order No. 26-UI-325748, reversing decision # L0016307497 by concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving benefits based on the work separation. On April 9, 2026, the employer filed an application for review of Order No. 26-UI-325748 with the Employment Appeals Board (EAB) that, by rule, was treated as a request to reopen the April 1, 2026 hearing.²

ALJ Scott considered the employer's reopen request, and on April 21, 2026, issued Order No. 26-UI-327691, denying the request and leaving Order No. 26-UI-325748 undisturbed. On April 28, 2026, the employer filed an application for review of Order No. 26-UI-327691 with EAB. Additionally, under OAR 471-040-0040(6), the employer's April 9, 2026 application for review of Order No. 26-UI-325748 was returned to EAB for a decision on the merits following denial of their request to reopen the April 1, 2026 hearing. These matters come before EAB based on the employer's applications for review of Orders No. 26-UI-325748 and 26-UI-327691.

EAB combined its review of Orders No. 26-UI-325748 and 26-UI-327691 under OAR 471-041-0095 (October 29, 2006). For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2026-EAB-0377 and 2026-EAB-0415).

¹ Decision # L0016307497 stated that claimant was denied benefits from December 21, 2025 to December 19, 2026. However, decision # L0016307497 should have said that claimant was disqualified from receiving benefits beginning Sunday, December 21, 2025 and until she earned four times her weekly benefit amount. *See* ORS 657.176.

² *See* OAR 471-041-0060(4) (May 13, 2019).

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is an April 9, 2026 email that the employer sent to EAB along with its application for review filed that day. The email contains information about why the employer did not appear at the April 1, 2026 hearing, and is therefore necessary to complete the record. 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.

WRITTEN ARGUMENT: EAB considered the employer's written arguments, submitted on April 28, 2026 and May 5, 2026, when reaching this decision.

CONCLUSIONS AND REASONS: Orders No. 26-UI-325748 and 26-UI-327691 are set aside, and these matters remanded for further development of the record.

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 say the reason(s) for missing the hearing in a written statement, which OAH shall consider in determining whether good cause exists for failing to appear at the hearing. OAR 471-040-0040(3).

The employer's request to reopen the hearing was filed within 20 days of the date on which Order No. 26-UI-325748 was filed. Additionally, although the April 9, 2026 email appears not to have been forwarded to the ALJ who considered the employer's reopen request,³ it nevertheless accompanied the request when the employer originally filed it with EAB, and therefore constitutes a written statement explaining their reasons for missing the hearing. As such, the reopen request met the threshold requirements for consideration.

The employer indicated in the above email that they failed to appear at the hearing because the notice of hearing had been sent to "an incorrect address associated with a former payroll provider . . . in Colorado," and that "[t]he decision paperwork was only recently forwarded to [the employer] after it was mistakenly routed as a tax document." EAB Exhibit 1 at 1. Not receiving the notice of hearing prior to the hearing may be a factor beyond the employer's reasonable control. However, further development of the record is necessary to decide if this is the case. On remand, the ALJ should inquire as to why the notice of hearing was mailed to the employer's former payroll provider, including whether and when the employer updated their address with the Department or OAH; and what other notices, if any, the employer received relating to this matter.

³ EAB has taken notice of these facts, which are 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 will remain in the record.

If the record on remand shows that the employer's reopen request should be allowed, the ALJ should proceed to a re-hearing on the merits of decision # L0016307497. Note that EAB has not reviewed the merits of decision # L0016307497, as the record in this matter may not yet be complete.

DECISION: Orders No. 26-UI-325748 and 26-UI-327691 are set aside, and these matters remanded for further proceedings consistent with this order.

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

DATE of Service: June 1, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 26-UI-325748 and 26-UI-327691 or return these matters to EAB. Only timely applications for review of the orders mailed to the parties after the remand hearing will return these matters 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 ໄດ້ ໂດຍປະຕິບັດຕາມຄໍາແນະນໍາທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

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 الإستئناف 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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