

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0649

Reversed
Request to Reopen Allowed
Mertis Hearing Required

PROCEDURAL HISTORY: On April 14, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct, disqualifying claimant from receiving benefits effective October 12, 2025 (decision # L0017043168).¹ Claimant filed a timely request for hearing. On April 21, 2026, notice was mailed to the parties that a hearing was scheduled for May 7, 2026. On May 7, 2026, claimant failed to appear at the hearing, and ALJ Krueger issued Order No. 26-UI-329571, dismissing claimant's request for hearing due to failing to appear. On May 11, 2026, claimant filed a timely request to reopen the April 21, 2026 hearing. ALJ Kangas considered the request, and on June 25, 2026 issued Order No. 26-UI-333516, denying the request and leaving Order No. 26-UI-329571 undisturbed. On July 11, 2026, claimant filed an application for review of Order No. 26-UI-333516 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB did not consider claimant's written argument because they did not state that they provided a copy of their argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019).

FINDINGS OF FACT: (1) On April 21, 2026, notice was mailed to claimant's address on file with the Office Administrative Hearings (OAH) that a hearing was scheduled for May 7, 2026 at 8:15 a.m. Claimant received the notice prior to the hearing.

(2) On May 7, 2026, claimant failed to appear at the hearing because they misremembered the hearing date as being May 17, 2026. Also on May 7, 2026, Order No. 26-UI-329571 was issued, dismissing claimant's request for hearing due to failing to appear.

¹ Decision # L0017043168 stated that claimant was denied benefits from October 12, 2025 to October 24, 2026. However, decision # L0017043168 should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 12, 2025 and until they earned four times their weekly benefit amount. See ORS 657.176.

(3) On May 11, 2026, claimant filed a request to reopen the May 7, 2026 hearing.

CONCLUSIONS AND REASONS: Claimant's request to reopen is allowed, and the matter remanded for a hearing on the merits of decision # L0017043168.

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

Claimant's request to reopen was filed within 20 days of the date Order No. 26-UI-329571 was mailed, and contained a written statement explaining why claimant missed the hearing. The request therefore met the threshold requirements for consideration.

Claimant wrote that they missed the hearing for the following reasons:

I mistakenly confused the hearing date and believed the hearing was scheduled for May 17 rather than May 7. At the time, I was managing multiple overlapping legal proceedings, financial obligations, document preparation, and childcare responsibilities, significant personal & legal stressors occurring at the same time, which contributed to the scheduling confusion.

Exhibit 5 at 2. The order under review concluded that these reasons did not amount to an excusable mistake "because it was not, for example, a due process issue, was not the result of inadequate notice, reasonable reliance on another, or the inability to follow instructions despite substantial efforts to comply." Order No. 26-UI-333516 at 3.

However, that list of examples of the types of mistakes that are "excusable" is not exhaustive, and the only specific examples given in the rule of circumstances or mistakes that are *not* "excusable" are: "[f]ailure to receive a document due to not notifying the Employment Department or Office of Administrative Hearings of an updated address while the person is claiming benefits or if the person knows, or reasonably should know, of a pending appeal;" and "[n]ot understanding the implications of a decision or notice when it is received." OAR 471-040-0040(2)(b)(A) and (B). Neither of those circumstances contributed to claimant missing the hearing.

The circumstances described by claimant show that they missed the hearing by mistake after confusing the hearing date listed on the notice. This mistake was caused, at least in part, by the numerous additional factors listed above. Given the presence of these additional factors, the mistake regarding the hearing date was excusable, and good cause exists to reopen the hearing.

For these reasons, claimant's request to reopen the May 7, 2026 hearing is allowed, and a hearing on the merits of decision # L0017043168 is required.

DECISION: Order No. 26-UI-333516 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: August 14, 2026

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-333516 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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