EO: Intrastate
BYE: 22-Feb-2025

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0852

Reversed & Remanded

PROCEDURAL HISTORY AND FINDINGS OF FACT: On May 17, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct and was therefore disqualified from receiving unemployment insurance benefits effective February 18, 2024 (decision # L0004118243).[1] On June 6, 2024, decision # L0004118243 became final without claimant having filed a request for hearing. On July 6, 2026, claimant filed a late request for hearing. ALJ Kangas considered the request, and on July 20, 2026 issued Order No. 26-UI-335374, dismissing the request as late, subject to claimant's right to renew the request by responding to an appellant questionnaire by August 3, 2026. On July 28, 2026, claimant filed a timely appellant questionnaire response. ALJ S. Lee considered the response, and on August 26, 2026 issued Order No. 26-UI-338336, canceling Order No. 26-UI-335374 and re-dismissing claimant's request for hearing as late without good cause. On September 10, 2026, claimant filed an application for review of Order No. 26-UI-338336 with the Employment Appeals Board (EAB).

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

CONCLUSIONS AND REASONS: Order No. 26-UI-338336 is set aside and the matter remanded for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, the merits of decision # L0004118243.

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

[1] Decision # L0004118243 stated that claimant was denied benefits from February 25, 2024 to February 22, 2025. However, as decision # L0004118243 concluded that the discharge occurred on February 23, 2024, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, February 18, 2024, and until he earned four times his weekly benefit amount. *See* ORS 657.176.

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 # L0004118243 was due by June 6, 2024. Claimant's request for hearing was filed on July 6, 2026, and was therefore late. Claimant wrote in his appellant questionnaire response that he did not file a timely request for hearing because he did not receive decision # L0004118243 when it was mailed. Exhibit 3 at 1. This may have been a factor beyond claimant's reasonable control that prevented timely filing, and further development of the record is therefore warranted. On remand, inquiry should be made into the possible reasons for claimant failing to receive decision # L0004118243, and whether claimant became aware of the decision prior to the June 6, 2024 filing deadline through other means, such as by viewing it in Frances Online or through discussions with WorkSource.

Furthermore, if good cause exists to extend the filing deadline, additional inquiry should be made into when the factors that prevented timely filing ended, and whether claimant's late request for hearing was filed within a "reasonable time" thereafter. Claimant wrote in his questionnaire response that he "visited WorkSource at least weekly for 2-3 hours from February to September of 2024." Exhibit 3 at 2. Claimant also suggested that by July 2024 he had begun corresponding with the Bureau of Labor and Industries (BOLI) rather than the Department, mistakenly believing that BOLI "would help [him] with the Denial [of unemployment insurance benefits]," and that he did not learn until 2026 that BOLI had no involvement in unemployment insurance benefit claims. Exhibit 1 at 4. This inquiry should therefore include what was discussed at the WorkSource meetings; whether claimant was provided access to Frances Online during the meetings and, if so, to decision # L0004118243 specifically; whether claimant's communications with BOLI involved complaints about his employment or about the unemployment insurance claim; when and how claimant learned that only the Department, rather than BOLI, could assist with the benefit claim; and any other factors relevant to this analysis.

For these reasons, Order No. 26-UI-338336 is set aside and the matter remanded for a hearing to determine whether claimant's late request for hearing should be allowed and, if so, to address the merits of decision # L0004118243.

DECISION: Order No. 26-UI-338336 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: <u>October 28, 2026</u>

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 26-UI-338336 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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you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

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 – 本判决会影响您的失业救济金。 如果您不明白本判决， 请立即联系就业上诉委员会。 如果您不同意此判决，您可以按照该判决结尾所写的说明，向俄勒冈州上诉法院提出司法复审申请。

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 فورا، 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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311
Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711
Email: *appealsboard@employ.oregon.gov*
Website: *www.Oregon.gov/employ/pages/employment-appeals-board.aspx*

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