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

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DS 005.00

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0042

Application for Review Dismissed

PROCEDURAL HISTORY: On September 30, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant but not for misconduct (decision # 114132). The employer filed a timely request for hearing. On November 25, 2013, ALJ Clink conducted a hearing, and on December 13, 2013 issued Hearing Decision 13-UI-06375, affirming the Department's decision. On January 2, 2014, Hearing Decision 13-UI-06375 became final without an application for review having been filed. On January 3, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: The employer did not establish good cause to file an untimely application for review, and its application for review should be dismissed.

ORS 657.270(4) required the employer's application for review to be filed no later than January 2, 2014; it was filed on January 3, 2014, as shown by the postmarked date affixed to the envelope in which the application for review was mailed. OAR 471-041-0065(1)(b) (October 29, 2006) (if mailed, the filing date is the postmark date on the envelope in which the application for review was mailed). OAR 471-041-0070(3) requires that individuals filing late applications for review include with the late application "a written statement describing the circumstances that prevented a timely filing." The employer did not provide any explanation as to why it filed its application four days after the filing deadline expired.

Because the application for review was filed after the 20-day deadline provided by ORS 657.270(4), and good cause to extend the time allowed has not been shown, the application for review must be dismissed.

DECISION: The application for review filed January 3, 2014 is dismissed. Hearing Decision 13-UI-06375 remains undisturbed.

Susan Rossiter and Tony Corcoran;
D. E. Larson, not participating.

DATE of Service: January 14, 2014

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 listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310, or visit the website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.