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

701
AAA 005.00

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0046

Application for Review Dismissed

PROCEDURAL HISTORY: On September 12, 2013, the Oregon Employment Department (the Department) served two notices of two administrative decisions concluding claimant was not available for work from October 28, 2012 to November 3, 2012, November 11, 2012 to December 15, 2012, December 23, 2012 to February 2, 2013, February 10, 2013 to February 16, 2013, February 24, 2013 to March 9, 2013, March 24, 2013 to April 13, 2013, and May 12, 2013 to May 18, 2013 (decision # 170550), and from September 1, 2013 to September 7, 2013 (decision # 110823). On November 4, 2013, the Office of Administrative Hearings (OAH) issued two notices of a consolidated hearing scheduled for November 14, 2013 at 1:30 p.m. On November 14, 2013, ALJ Shoemake issued Hearing Decisions 13-UI-04659 and 13-UI-04661, dismissing claimant's request for hearing for failure to appear. On December 2, 2013, claimant filed a timely request to reopen the hearing. On December 18, 2013, ALJ Kangas reviewed claimant's request to reopen and issued Hearing Decisions 13-UI-06779 and 13-UI-06780, denying claimant's request. On January 7, 2014, Hearing Decisions 13-UI-06779 and 13-UI-06780 became final without applications for review having been filed. On January 8, 2014, claimant filed by facsimile applications for review with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 13-UI-06779 and 13-UI-06780. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2013-EAB-0045 and 2013-EAB-0046).

CONCLUSIONS AND REASONS: Claimant did not establish good cause to file untimely applications for review, and his applications for review should be dismissed.

ORS 657.270(4) required claimant's application for review to be filed no later than January 7, 2014; it was filed on January 8, 2014, as shown by the receipt date stamped on the documents. OAR 471-040-0065(1)(c) (October 29, 2006) (the filing date of applications for review filed by fax is the receipt date stamped or written on the fax transmission by the public employee who received the document). 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.” Claimant provided a written statement accepting responsibility for his failure to appear at the hearing scheduled on November 4, 2013 at OAH, but failed to explain why he filed his applications one day after the filing deadline expired.

Because the applications for review were 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 applications for review must be dismissed.

DECISION: The applications for review filed January 8, 2014 are dismissed. Hearing Decisions 13-UI-06779 and 13-UI-06780 remain undisturbed.

Tony Corcoran and Susan Rossiter;
Erik Larson, not participating.

DATE of Service: January 17, 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.