

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0069

Dismissed
Application for Review Dismissed

PROCEDURAL HISTORY: On October 3, 2013, the Oregon Employment Department (the Department) served two notices of two administrative decisions, one concluding the employer discharged claimant for misconduct (decision # 101423), and one concluding claimant was not available for work from September 8, 2013 through September 14, 2013 (decision # 102927). On October 7, 2013, claimant filed a timely telephone request for hearing. On November 19, 2013, the Office of Administrative Hearings (OAH) issued notice of a consolidated hearing scheduled for December 9, 2013, at 1:30 p.m. On December 12, 2013, ALJ Kirkwood issued Hearing Decision 13-UI-06295 affirming the Department's decision that claimant was not available for work (decision # 102927). On December 13, 2013, ALJ Kirkwood issued Hearing Decision 13-UI-06632 affirming the Department's decision that the employer discharged claimant for misconduct (decision # 101423).

On January 2, 2014, Hearing Decisions 13-UI-06295 and 13-UI-06632 became final without an application for review having been filed. On January 8, 2014, claimant filed a late application for review.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 13-UI-06295 and 13-UI-06632. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-0069 and 2013-EAB-0070).

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

CONCLUSIONS AND REASONS: Claimant did not establish good cause to file an untimely application for review, and his 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 8, 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." Claimant did not provide any explanation as to why he filed his application six 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 8, 2014 is dismissed. Hearing Decisions 13-UI-06295 and 13-UI-06632 remain undisturbed.

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

DATE of Service: February 11, 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.