

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0142

### *Application for Review Dismissed*

**PROCEDURAL HISTORY:** On September 12, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged but not for misconduct (decision #121544). The employer filed a timely request for hearing. On November 27, 2013, Administrative Law Judge Menegat conducted a hearing at which claimant did not appear, and on December 2, 2013, issued Hearing Decision 13-UI-05444, concluding that claimant voluntarily left work without good cause. On December 23, 2013, Hearing Decision 13-UI-05444 became final without an appeal having been filed. On January 2, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** Claimant did not establish good cause to file an untimely application for review, and claimant's application for review should be dismissed.

ORS 657.270(4) required claimant's application for review to be filed no later than December 23, 2013; it was filed on January 2, 2014, as shown by the postmark on the envelope in which the application was submitted. OAR 471-041-0065 (October 29, 2006). OAR 471-041-0070 (October 29, 2006) provides:

(1) An application for review is timely if it is filed within 20 days of the date that OAH mailed the hearing decision sought to be reviewed. EAB shall dismiss a late application for review, unless the filing period is extended in accordance with this rule.

(2) The filing period may be extended a reasonable time upon a showing of good cause as provided by ORS 657.875.

(a) "Good cause" exists when the applicant provides satisfactory evidence that factors or circumstances beyond the applicant's reasonable control prevented timely filing.

(b) "A reasonable time" is seven days after the circumstances that prevented timely filing ceased to exist.

In his written argument, claimant explained why he failed to appear at the hearing. He provided no reasons why he filed his application for review several days after the filing deadline expired. Accordingly, claimant failed to show good cause for extending the filing deadline.

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 21, 2014 is dismissed. Hearing Decision 13-UI-05444 remains undisturbed.

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

**DATE of Service:** January 31, 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.