

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0322

Application for Review Dismissed

PROCEDURAL HISTORY: On November 13, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 143739). Claimant filed a timely request for hearing. On January 16, 2014, ALJ Menegat conducted a hearing, and on January 21, 2014, issued Hearing Decision 14-UI-08836 affirming the Department's decision. On February 10, 2014, Hearing Decision 14-UI-08836 became final without an application for review having been filed. On February 24, 2014 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 her application for review should be dismissed.

ORS 657.270(4) required claimant's application for review to be filed no later than February 10, 2014; it was filed on February 24, 2014, as shown by the postmark date affixed to the envelope in which it 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 provided a written statement arguing the events that led up to her discharge, but failed to explain why she filed an application for review 14 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 February 24, 2014 is dismissed. Hearing Decision 14-UI-08836 remains undisturbed.

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

DATE of Service: March 4, 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.