

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0445

Application for Review Dismissed

PROCEDURAL HISTORY: On January 23, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 73152). Claimant filed a timely request for hearing. On February 27, 2014, ALJ Wyatt conducted a hearing, and on February 28, 2014 issued Hearing Decision 14-UI-11450, affirming the Department's decision. On March 20, 2014, Hearing Decision 14-UI-11450 became final without an application for review having been filed. On March 25, 2014, claimant filed by facsimile a late application for review with the Employment Appeals Board (EAB).

Claimant failed to certify she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, we did not consider the argument when reaching this decision.

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 the claimant's application for review to be filed no later than March 20, 2014; it was filed on March 25, 2014, as shown by the fax transmission date and the receipt date stamped on the application for review. OAR 471-041-0065(1)(c) (October 29, 2006) (if faxed, the filing date is the receipt date stamped or written on the fax transmission by the public employee who receives 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 did not provide any explanation as to why she filed her application 5 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 March 25, 2014 is dismissed. Hearing Decision 14-UI-11450 remains undisturbed.

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

DATE of Service: March 27, 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.