

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0711

Application for Review Dismissed

PROCEDURAL HISTORY: On February 10, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 120813). Claimant filed a timely request for hearing. On April 8, 2014, ALJ Wipperman conducted a hearing in which the employer did not participate, and on April 9, 2014, issued Hearing Decision 14-UI-14733, concluding that claimant was discharged but not for misconduct. At 5:15 p.m. on April 29, 2014, the Employment Appeals Board (EAB) received by fax transmission an application for review from the employer.

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) requires the employer's application for review to be filed no later than April 29, 2014. If EAB receives a faxed document after 5:00 p.m., the document will be considered as received on the following business day. OAR 471-041-0065(1)(c). Because the employer's application for review was received after 5:00 p.m. on April 29, 2014, it is considered received on April 30, 2014 and is, therefore, untimely.

The deadline for filing a late application for review may be extended under certain circumstances. OAR 471-041-070. To be considered for such an extension, however, a party must include a "written statement describing the circumstances that prevented a timely filing." OAR 471-041-007(3). The employer provided no explanation as to why it filed its application for review after the filing deadline expired. Accordingly, the application for review is dismissed.

DECISION: The application for review filed April 30, 2014 is dismissed. Hearing Decision 14-UI-14733 remains undisturbed.

Susan Rossiter and Tony Corcoran;
D. E. Larson and J. S. Cromwell, *pro tempore*, not participating.

DATE of Service: May 6, 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.