

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0981

*Application for Review Dismissed
Disqualification*

PROCEDURAL HISTORY: On March 23, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 135510). On March 24, 2014, the Department served notice of an administrative decision concluding claimant was not available for work from March 2, 2014 through March 15, 2014 (weeks 10-14 through 11-14) (decision # 144413). Claimant filed timely requests for hearing on both decisions. On April 23, 2014 the Office of Administrative Hearings (OAH) issued two notices of two hearings scheduled for May 7, 2014, one at 8:15 a.m. and one at 9:30 a.m. On May 7, 2014, ALJ Frank conducted two hearings, and on May 15, 2014, ALJ Frank issued Hearing Decision 14-UI-17759, affirming the Department's decision # 135510, and on May 16, 2014 ALJ Frank issued Hearing Decision 14-UI-17789, concluding claimant was not available for work from March 2, 2014 through March 22, 2014 (weeks 10-14 through 12-14). On June 4, 2014, Hearing Decision 14-UI-17759 became final without an application for review having been filed. On June 5, 2014, claimant filed applications for review with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-17789 and 14-UI-17759. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-0980 and 2014-EAB-0981).

CONCLUSIONS AND REASONS: Claimant did not establish good cause to file an untimely application for review of Hearing Decision 14-UI-17759, and her application for review should be dismissed.

ORS 657.270(4) required claimant's application for review to be filed no later than June 4, 2014; it was filed on June 5, 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 she filed her application one day 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 of Hearing Decision 14-UI-17759 must be dismissed.

EAB reviewed the entire hearing records. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 14-UI-17789 is **adopted** and the application for review of Hearing Decision 14-UI-17759 is **dismissed**.

DECISION: Hearing Decision 14-UI-17789 is affirmed. The application for review of Hearing Decision 14-UI-17759 is dismissed. Hearing Decision 14-UI-17759 remains undisturbed.

Tony Corcoran and J. S. Cromwell;
Susan Rossiter, not participating.

DATE of Service: June 12, 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.