

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-0986**

*Application for Review Dismissed*

**PROCEDURAL HISTORY:** On October 15, 2013, the Oregon Employment Department (the Department) served two notices of two administrative decisions; one concluding claimant was unavailable for work from June 23, 2013 to August 31, 2013 (weeks 26 – 35); and one concluding claimant failed to accept an offer of suitable work ending August 31, 2013 from employer, Apartment Advantage. On November 4, 2013, those decisions became final without a request for hearing having been filed.

On December 2, 2013, the Department served notice of an administrative decision (decision # 194650) assessing a \$4,200 overpayment, \$630 in monetary penalties, and 38 penalty weeks based on the October 15, 2013 administrative decisions. On December 23, 2013, decision # 194650 became final without a request for hearing having been filed. On March 24, 2014, claimant filed an untimely request for hearing on decision # 194650. On April 2, 2014, ALJ Kangas issued Hearing Decision 14-UI-13968, dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the request by submitting a response to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.<sup>1</sup> On April 16, 2014, the deadline for filing a response to Hearing Decision 14-UI-13968 expired. On April 21, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On May 16, 2014, ALJ S. Lee issued a letter order stating claimant's response was late and would not be considered. On June 5, 2014, the letter order became final without an application for review having been filed. On June 9, 2014, claimant filed by facsimile an untimely application for review of Hearing Decision 14-UI-13968.

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<sup>1</sup> Hearing Decision 14-UI-13968.

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

ORS 657.270(4) required the claimant's application for review to be filed no later than June 5, 2014; it was filed on June 9, 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 submitted a written argument describing the circumstances regarding her untimely filing dates at OAH, and her work separation from the employer, but failed to explain why she filed her application for review 4 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 June 9, 2014 is dismissed. Hearing Decision 14-UI-13968 remains undisturbed.

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

**DATE of Service: June 10, 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.