

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1404

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On June 2, 2014 the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work (decision # 140150). On June 23, 2014, decision # 140150 became final without a request for hearing having been filed. On July 31, 2014, claimant filed an untimely request for hearing. On August 6, 2014, 2014, ALJ Kangas issued Hearing Decision 14-UI-22930, dismissing claimant's request for hearing as untimely. On August 25, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant asked that her case be reopened, explaining that "[m]y previous hearing request was filed late because I misunderstood the exact requirements for filing a request." Claimant's request is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows it was prevented by circumstance beyond its reasonable control from presenting the information at the hearing.¹ ORS 657.259 requires that a request for hearing must be filed within 20 days after the date the administrative decision is mailed to the claimant's last known address. Under ORS 657.875, the 20-day time limit can be extended a reasonable time upon a showing of good cause. OAR 471-040-0010(1)(b)(B) specifies that good cause to extend the 20-day limit does not include "not understanding the implications of a decision or notice when it is received." Claimant has failed to demonstrate good cause for failing to timely request a hearing, and has not, therefore, shown that any circumstances beyond her reasonable control prevented her from presenting this information at hearing.

¹ With her request for hearing, claimant included a statement in which she explained that she did not file a timely request for hearing because she was determined to take full responsibility for her actions and accept the Department's decision. Exhibit 1.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-22930 is affirmed.

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

DATE of Service: September 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 court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.