

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1832

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On June 27, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 75218). On July 17, 2014, decision # 75218 became final without a request for hearing having been filed. On September 29, 2014, claimant filed an untimely request for hearing. On October 7, 2014, ALJ Kangas issued Hearing Decision 14-UI-26523, 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 October 27, 2014, OAH received claimant's late response. By letter dated November 5, 2014, the Office of Administrative Hearings (OAH) informed claimant that her response to the "Appellant Questionnaire" was late, and that Hearing Decision 14-UI-26523 remained in effect. On November 25, 2014, claimant filed an application for review of the November 5<sup>th</sup> letter with the Employment Appeals Board (EAB).

With her application for review, claimant wrote "I am not presently receiving posted mail in a timely manner due to my current living situation." Claimant's statement is considered 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 that it was prevented by circumstances beyond its reasonable control from presenting the information at a hearing, or, in this case, from presenting the information in a timely response to the appellant questionnaire. In support of her argument, however, claimant provided no specific details, such as what were her problems receiving mail, how long it usually took for her to receive mail, whether she notified the Department or OAH of her difficulty, what she did to try to resolve the mail delay, when she received the hearing decision with the appellant questionnaire, or why she responded to the appellant questionnaire when she did. Without those sorts of details, we have no evidence that would support a conclusion that the content of claimant's response to the appellant questionnaire should be considered despite having been submitted after the

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<sup>1</sup> Decision 14-UI-26523

deadline had passed.<sup>2</sup> Claimant's request for EAB to consider her new information must, therefore, be denied.

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:** Claimant's late request for hearing is dismissed. Hearing Decision 14-UI-26523 remains undisturbed.

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

**DATE of Service: December 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.

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<sup>2</sup> OAH received claimant's response to the Appellant Questionnaire on October 27, 2014. Hearing Decision 14-UI-26523 was mailed on October 7, 2014. Claimant's response to the Appellant Questionnaire was due by no later than October 21, 2014, within 14 days of the decision being mailed. Claimant's response was 6 days late.