

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1874

Late Application for Review Dismissed

PROCEDURAL HISTORY: On September 11, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 110757). Claimant filed a timely request for hearing. On October 21, 2014, ALJ Frank conducted a hearing, and on October 22, 2014 issued Hearing Decision 14-UI-27370 affirming the Department's decision. On November 11, 2014, Hearing Decision 14-UI-27370 became final without an application for review having been filed. On December 8, 2014, claimant filed an untimely application for review.

CONCLUSIONS AND REASONS: Claimant's late application for review is dismissed.

ORS 657.270(4) required that claimant's application for review of Hearing Decision 14-UI-27370 be filed no later than November 11, 2014.

OAR 471-041-0065(1)(b) (October 29, 2006) provides the filing date of mailed documents is the postmark affixed to the envelope by the United States Postal Service. Claimant's application for review was postmarked on December 8, 2014.

OAR 471-041-0070 (August 30, 2011) provides that the filing period may be extended a reasonable time upon a showing of good cause as provided by ORS 657.875. OAR 471-041-0070(2)(a) provides: "Good cause" exists when the applicant provides satisfactory evidence that factors or circumstances beyond the applicant's reasonable control prevented timely filing. OAR 471-041-0070(3) requires that an individual filing a late application for review include with the late application "a written statement describing the circumstances that prevented a timely filing."

In the statement that accompanied claimant's application for review, claimant explained her late appeal was due to a job search outside of Cottage Grove. Claimant did not provide satisfactory evidence that factors or circumstances beyond her reasonable control prevented her from monitoring her mail while away from home to allow for a timely filing. Therefore, good cause has not been shown for filing a late application for review.

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 December 8, 2014 is dismissed. Hearing Decision 14-UI-27370 remains undisturbed.

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

DATE of Service: December 22, 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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