

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0001

Affirmed
Late Request for Hearing Dismissed
Disqualification

PROCEDURAL HISTORY: On October 16, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 114700). On November 5, 2014, administrative decision # 114700 became final without a request for hearing having been filed. On December 2, 2014, claimant filed a late request for hearing. On December 9, 2014, ALJ Kangas issued Hearing Decision 14-UI-30073, dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the request by submitting responses to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.¹ On December 22, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On December 30, 2014, ALJ Kangas reviewed claimant's response and issued Hearing Decision 14-UI-31094, cancelling Hearing Decision 14-UI-30073, and re-dismissing claimant's December 2, 2014 request for hearing. On January 7, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record. In his argument, claimant writes: "...had I known that the old claim would reflect new claim decisions I would have filed an appeal immediately..." We agree with the ALJ that, pursuant to OAR 471-040-0010(1)(b)(B), claimant's failure to understand the implication of an administrative decision is not good cause for filing a late appeal.

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-31094 is affirmed.

¹ Hearing Decision 14-UI-30073.

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

DATE of Service: January 15, 2015

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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