

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0003

Application for Review Dismissed

PROCEDURAL HISTORY: On October 16, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 153123) concluding claimant voluntarily left work without good cause. Claimant filed a timely request for hearing. On December 11, 2014, ALJ Lohr conducted a hearing, and on December 12, 2014 issued Hearing Decision 14-UI-30352, affirming the Department's decision. On January 2, 2015, Hearing Decision 14-UI-30352 became final without an application for review having been filed. On January 6, 2015, claimant filed an untimely application for review with the Employment Appeals Board (EAB).

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-30352 be filed no later than January 2, 2015. 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 January 6, 2015.

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."

On her application for review, claimant wrote " *just received Boli invest. determination Please refer to page 3 analysis." Claimant's written argument included a 5-page letter from The Oregon Bureau of Labor and Industries (BOLI) dated January 2, 2014 informing claimant that she had an open case with them. However, claimant provided no information regarding why she waited until January 6, 2014 to file her application for review. Claimant has not demonstrated how her open BOLI claim prevented her from filing an application for review before January 2, 2014. Claimant did not provide satisfactory

evidence that any other factors or circumstances beyond her reasonable control prevented timely filing. Therefore, good cause has not been shown.

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 January 6, 2015 is dismissed. Hearing Decision 14-UI-30352 remains undisturbed.

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

DATE of Service: January 26, 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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