

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0047

*Application for Review Dismissed
(Solicitud de revisión denegada)*

PROCEDURAL HISTORY: On October 7, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 110526). On October 27, 2014, decision # 110526 became final without a request for hearing having been filed. On October 30, 2014, claimant filed an untimely request for hearing. On November 12, 2014, ALJ Kangas issued Hearing Decision 14-UI-28571, 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 1, 2014, the Office of Administrative Hearings (OAH) received claimant's untimely response. On December 2, 2014, Hearing Decision 14-UI-28571 became final without an application for review having been filed. On December 10, 2014, ALJ Kangas issued a letter informing claimant her response to the Appellant Questionnaire was untimely and would not be considered. On January 20, 2015, claimant filed an untimely application for review.²

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

ORS 657.270(6) required that claimant's application for review of Hearing Decision 14-UI-28571 be filed no later than December 2, 2014. OAR 471-041-0065(1)(c) (October 29, 2006) provides the filing date of faxed documents is the receipt date stamped or written on the fax transmission by the public employee who receives the document. Claimant's faxed application for review was stamped as received

¹ Hearing Decision 14-UI-28571.

² Claimant's application for review included a letter in Spanish in which claimant appears to have requested a hearing on an administrative decision the Department issued on October 14, 2014, assessing a \$450 overpayment, \$67.50 monetary penalty and 4 penalty weeks based on decision # 110526. On November 3, 2014, that decision became final without a request for hearing having been filed. We have referred this apparent request for a hearing to the Office of Administrative Hearings for further processing. Claimant should direct any inquiries about that matter to the Office of Administrative Hearings.

on January 20, 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."

In the statement that accompanied claimant's application for review, claimant wrote "I would like to appeal the decision made by unemployment concerning my fine of more than \$500 which is not in my reach to pay." However, claimant provided no information to indicate why she was unable to file her application for review by December 2, 2014. Claimant did not provide satisfactory evidence that 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 20, 2015 is dismissed. Hearing Decision 14-UI-28571 remains undisturbed.

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

DATE of Service: January 22, 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.

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.

NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros, (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en court.oregon.gov. En este sitio web, haga clic en "Help" para acceso a información en español.

Por favor, ayúdenos mejorar nuestros servicios por llenar el formulario de encuesta sobre nuestro servicio de atención al cliente. Para llenar este formulario, puede visitar <https://www.surveymonkey.com/s/5WQXNJH>. Si no puede llenar el formulario sobre el internet, puede comunicarse con nuestra oficina para una copia impresa de la encuesta.