

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0640**

*Application for Review Dismissed  
Disqualification*

**PROCEDURAL HISTORY:** On April 3, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 72703). Claimant filed a timely request for hearing. On May 8, 2015, ALJ Triana conducted a telephone hearing at which claimant and the employer appeared. Claimant asked the ALJ to postpone the hearing. ALJ Triana denied claimant's request. Claimant disconnected from the hearing without providing evidence. The employer participated in the hearing, and on May 8, 2015 ALJ Triana issued Hearing Decision 15-UI-38193, concluding that claimant quit work without good cause. On May 28, 2015, Hearing Decision 15-UI-38193 became final without an application for review having been filed. On May 29, 2015, claimant filed, by fax, an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** On May 8, 2015, claimant called in to the hearing and asked the ALJ to reschedule it. The ALJ denied claimant's request and stated that they would proceed with the hearing. Claimant replied, "No we're not," and disconnected from the hearing. Audio Record at 4:25.

**CONCLUSIONS AND REASONS:** Claimant failed to establish good cause for filing an untimely application for review, which therefore is dismissed.

Claimant filed an application for review of Hearing Decision 15-UI-38193 with EAB. OAR 471-041-0060(4) (January 8, 2008) states that EAB will treat an application for review by a party whose request for hearing was dismissed because that party failed to appear as a request to reopen the hearing under ORS 657.270. In this case, however, claimant appeared at the hearing, and the ALJ did not dismiss his request for hearing due to his failure to participate. EAB therefore did not treat claimant's application for review as a request to reopen the hearing.

ORS 657.270(6) required claimant's application for review to be filed no later than May 28, 2015; it was filed on May 29, 2015, as shown by the receipt date stamped or written on the fax transmission by the public employee who received the document. OAR 471-041-0065 (October 29, 2006).

OAR 471-041-0070(3) requires that individuals filing late applications for review include with the late application “a written statement describing the circumstances that prevented a timely filing.” Claimant included a written statement explaining why he asked the ALJ to reschedule the hearing, but did not provide any explanation as to why he filed his application for review of Hearing Decision 15-UI-38193 one day after the filing deadline expired.

Because the application for review was filed after the 20-day deadline provided by ORS 657.270(6), 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 May 29, 2015 is dismissed. Hearing Decision 15-UI-38193 remains undisturbed.

J. S. Cromwell and D. P. Hettle, *pro tempore*;  
Susan Rossiter, not participating.

**DATE of Service: June 8, 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 Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the ‘search’ function to search for ‘petition for judicial review employment appeals board’. A link to the forms and information will be among the search results.

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