

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0670**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On November 26, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision #122908). On December 16, 2014, the decision became final without a request for hearing having been filed. On June 1, 2015, claimant filed an untimely request for hearing. On June 8, 2015, ALJ Kangas issued Hearing Decision 15-UI-39670, dismissing claimant's request for hearing subject to claimant's right to renew the request by responding to an appellant questionnaire within 14 days of the date on which the decision was issued. Claimant timely submitted the appellant questionnaire. By letter dated June 24, 2015, the Office of Administrative Hearings (OAH) cancelled Hearing Decision 15-UI-39670. On July 21, 2015, ALJ Seideman conducted a hearing, and issued Hearing Decision 15-UI-41778, re-dismissing claimant's request for hearing. On July 30, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) On November 20, 2015, claimant talked with a Department representative about her work separation from Krauss Craft. As a result of this conversation, claimant understood that the Department would be sending her a decision about this work separation.

(2) On November 25, 2015, claimant moved from 5181 Tunnel Loop, Grants Pass OR 96526 to 180 Meadow Lane, Grants Pass, OR. Claimant did not notify the Department of her change of address.

(3) On November 26, 2015, the Department mailed decision #122908, which concluded that Krauss Craft discharged claimant for misconduct, to claimant's address of record, which was 5181 Tunnel Loop, Grants Pass, OR 96526. Claimant did not receive this decision.

(4) In January 2015, claimant contacted the Department and updated her address of record. Claimant learned about decision #122908 at that time, and also learned about her right to request a hearing on this decision.

(5) On June 1, 2015, claimant filed a request for hearing on decision #122908. She did so because she had been unable to find a job, had no income, and needed unemployment benefits.

**CONCLUSION AND REASONS:** Claimant’s request for hearing must be dismissed as untimely.

Under ORS 657.269, a request for hearing on an administrative decision must be filed within 20 days of the date on which the decision was mailed to a party’s last known address. The 20-day time limit can be extended upon a showing of good cause, which exists when the failure to timely file is caused by an excusable mistake or circumstances beyond the party’s reasonable control. ORS 657.875; OAR 471-040-0010(1) (February 10, 2012). Good cause does not include “failure to receive a document due to not notifying the Employment Department or Office of Administrative Hearings of an updated address while the person is claiming benefits or if the person knows, or reasonably should know of a pending appeal.” OAR 471-040-0010(1)(b)(A). After talking to the Department representative on November 20, 2014, claimant knew that the Department would be issuing a decision regarding her work separation from Krauss Craft. She did not promptly inform the Department of her change of address and, as a result, she did not receive the administrative decision when the Department mailed it to her. Because claimant’s failure to receive the hearing decision occurred because she did not update her address with the Department, she does not have good cause for filing a late hearing request on the administrative decision at issue.

**DECISION:** Hearing Decision 15-UI-41778 is affirmed.

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

**DATE of Service:** July 31, 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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