

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0811

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On May 15, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 82248). On June 4, 2015, decision # 82248 became final without a request for hearing having been filed. On July 1, 2015, claimant filed a late request for hearing. On July 10, 2015, ALJ Kangas issued Hearing Decision 15-UI-41350, dismissing claimant's late request for hearing, subject to claimant's right to renew the hearing request by responding to an appellant questionnaire attached to the decision by July 24, 2015. On July 28, 2015, claimant filed a late response to the appellant questionnaire and an application for review of Hearing Decision 15-UI-41350 with the Office of Administrative Hearings (OAH). On July 30, 2015, OAH issued a letter stating that claimant's late response to the appellant questionnaire would not be considered, and that Hearing Decision 15-UI-41350 remained in effect. Also on July 30, 2015, OAH forwarded claimant's application for review of Hearing Decision 15-UI-41350 and his response to the appellant questionnaire to the Employment Appeals Board (EAB).

Claimant's response to the appellant questionnaire does not explain why the response was late. Claimant therefore failed to establish that factors or circumstances beyond his reasonable control prevented him from filing a timely response. EAB therefore did not consider claimant's response when reaching this decision. *See* ORS 657.275(2); OAR 471-041-0090 (October 29, 2006).

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 15-UI-41350 is affirmed.

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

DATE of Service: August 4, 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. 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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