

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0957

Hearing Decision 15-UI-41659 Affirmed
Disqualification

Late Application for Review of Hearing Decision 15-UI-41661 Dismissed
Ineligible

PROCEDURAL HISTORY: On June 1, 2015, the Oregon Employment Department (the Department) served notice of two administrative decisions concluding that claimant was not available for work from February 15 through 21, 2015 (decision # 141123), and that claimant quit work without good cause (decision # 142210). Claimant filed timely requests for hearing on both decisions, and on July 15, 2015, ALJ Buckley conducted a consolidated hearing. On July 17, 2015, ALJ Buckley issued Hearing Decision 15-UI-41661, affirming decision # 141123. On July 18, 2015, ALJ Buckley issued Hearing Decision 15-UI-41659, affirming decision # 142210. On August 6, 2015, Hearing Decision 15-UI-41661 became final without an application for review having been filed. On August 7, 2015, claimant filed, by mail, a late application for review of Hearing Decision 15-UI-41661 and a timely application for review of Hearing Decision 15-UI-41659 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-41659 and 15-UI-41661. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0957 and 2015-EAB-0958).

Hearing Decision 15-UI-41659. EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 15-UI-41659 is **adopted**.

Hearing Decision 15-UI-41661. ORS 657.270(6) required that claimant's application for review of Hearing Decision 15-UI-41661 be filed no later than August 6, 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 August 7, 2015. Claimant therefore filed his application for review of Hearing Decision 15-UI-41661 one day late.

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." Claimant did not include such a statement with his application for review of Hearing Decision 15-UI-41661. Claimant's late application for review of Hearing Decision 15-UI-41661 therefore is dismissed.

DECISION: Hearing Decision 15-UI-41659 is affirmed. The late application for review of Hearing Decision 15-UI-41661 is dismissed. Hearing Decision 15-UI-41661 remains undisturbed.

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

DATE of Service: August 20, 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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