

## EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-1630

*Affirmed*  
*Late Claim Denied*

**PROCEDURAL HISTORY:** On September 30, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 130254) concluding claimant had not filed her claim in accord with the rules prescribed by the Department's Director. On October 20, 2014, administrative decision # 130254 became final without a request for hearing having been filed. On October 31, 2014, claimant filed a late request for hearing. On November 13, 2014, ALJ Kangas issued Hearing Decision 14-UI-28607, 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.<sup>1</sup> On November 25, 2014, the Office of Administrative Hearings (OAH) received claimant's response.

On December 4, 2014, the OAH issued a letter, "Cancellation of Hearing Decision" regarding Hearing Decision 14-UI-28607. On December 22, 2014, ALJ Triana conducted a hearing, and on December 23, 2014 issued Hearing Decision 14-UI-30884, affirming the Department's decision. On January 5, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record. In her argument, claimant wrote: "I'm requesting a review because I did try three times to file my claim online Saturday night September 13, 2014."<sup>2</sup> Despite her attempts, claimant never testified that she succeeded in filing her claim on September 13<sup>th</sup>, and there are no provisions in the applicable rules that provide for an extension of the deadline under any circumstances. Moreover, the extent of claimant's attempts is called in to question given that the authorized representative for the Department testified that the Department's online claim system would have, but did not, show any record of any attempt by claimant to log into the claim system between September 3, 2014 and September 15, 2014.

<sup>1</sup> Hearing Decision 14-UI-28607.

<sup>2</sup> Administrative decision # 130254 incorrectly identified September 11, 2014 as the deadline for filing a claim for the week of August 31 to September 6, 2014 (week 36-14). The authorized representative agreed the correct deadline for filing was September 13, 2014.

Audio at ~25. The authorized representative further testified that there were no reported problems with the online claim system during the period in question. Audio at ~26.

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 14-UI-30884 is affirmed.

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

**DATE of Service:** January 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 website at [court.oregon.gov](http://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.

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