

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-1636

Dismissed
Application for Review Dismissed

PROCEDURAL HISTORY: On October 7, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 152631). Claimant filed a timely request for hearing. On October 27, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for November 13, 2014. On November 10, 2014, claimant contacted OAH and requested a withdrawal of her hearing request. Also on November 10, 2014, ALJ Wipperman issued Hearing Decision 14-UI-28453 dismissing claimant's request for hearing at claimant's request. On December 1, 2014, Hearing Decision 14-UI- 28453 became final without an application for review having been filed. On December 17, 2014, claimant filed an untimely application for review.

CONCLUSIONS AND REASONS: Claimant's late application for review is dismissed.

ORS 657.270(4) required that claimant's application for review of Hearing Decision 14-UI-28453 be filed no later than December 1, 2014. OAR 471-041-0065(1)(c) (October 29, 2006) provides the filing date of faxed documents is the receipt date stamped or written on the fax transmission by the public employee who receives the document. Claimant's faxed application for review was stamped as received on December 17, 2014.

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."

On December 17, 2014, claimant submitted a three-page letter to OAH in which she requested OAH to reconsider the denial of benefits that resulted from the Department administrative decision # 152631 issued on October 7, 2014. EAB construes this request for reconsideration as an application for review.

Claimant's application for review, date stamped December 17, 2014, stated, "On November 10th I withdrew my request for a hearing regarding my voluntary leave (sic) from Wallowa County Health Care District hearing # 23975. I did not understand the ramifications of withdrawing from the hearing." However, claimant provided no further information to indicate why she did not file the application for review in a timely manner. Claimant did not provide satisfactory evidence that factors or circumstances beyond her reasonable control prevented timely filing. Therefore, good cause has not been shown. Because the application for review was filed after the 20-day deadline provided by ORS 657.270(4), and good cause to extend the time allowed has not been shown, the application for review must be dismissed.

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: The application for review filed December 17, 2014 is dismissed. Hearing Decision 14-UI-28453 remains undisturbed.

Susan Rossiter and Tony Corcoran;
J. S. Cromwell, 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. 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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