

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0168

Affirmed
Late Request for Hearing Denied
(Petición de Una Audiencia Tardía Negada)

PROCEDURAL HISTORY: On September 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 110129). On October 20, 2015, decision # 110129 became final without a request for hearing having been filed. On December 3, 2015, claimant filed a late hearing request. On December 15, 2015, ALJ Kangas issued Hearing Decision 15-UI-49411, dismissing claimant's hearing request as untimely, subject to claimant's right to renew the request by responding to an appellant questionnaire within 14 days. Claimant timely responded to the appellant questionnaire. By letter dated January 6, 2016, the Office of Administrative Hearings cancelled Hearing Decision 15-UI-49411. On January 27, 2016, ALJ Murdock conducted an interpreted hearing, and on January 28, 2016, issued Hearing Decision 16-UI-51915, dismissing claimant's hearing request as untimely. On February 16, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, we did not consider the argument when reaching this decision. Even if we had considered this argument, it would not have changed the outcome of this decision. In his argument, asks that he be allowed to explain to the judge that his employer did not fire him. Claimant filed a late hearing request, however; as a result, the ALJ could only address the issue of his work separation if he demonstrated good cause for filing a late hearing request for hearing under ORS 657.875 and OAR 471-040-0010 (February 10, 2012). Because the ALJ concluded that claimant did not demonstrate good cause for his late hearing request, she did not consider the merits of his work separation. We agree with this conclusion of the ALJ and therefore do not address the issue of his discharge.

EAB considered the entire record in this case. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 16-UI-51915 is affirmed.
Decisión de la Audiencia 16-UI-51915 queda confirmada.

Susan Rossiter and J. S. Cromwell;
D. H. Hettle, not participating.

DATE of Service: February 22, 2016

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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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

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