

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0775

Affirmed
Late Request to Reopen Denied

PROCEDURAL HISTORY: On October 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$1,606 overpayment, \$321.20 monetary penalty and 16 penalty weeks (decision # 194282). Claimant filed a timely request for hearing. On January 20, 2016, the Office of Administrative Hearings mailed notice of a hearing scheduling a hearing for February 12, 2016 at 2:30 p.m., at which claimant failed to appear. On February 19, 2016, ALJ Vincent issued Hearing Decision 16-UI-53337, dismissing claimant's request for hearing for failure to appear. On March 10, 2016, Hearing Decision 16-UI-53337 became final without claimant having requested reopening or filing an application for review. On June 7, 2016, claimant filed a late request to reopen. On June 21, 2016, ALJ Kangas issued Hearing Decision 16-UI-62214, denying claimant's late request to reopen. On June 29, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant submitted a copy of a Salem-News.com article indicating that Bonneville Hot Springs had agreed to pay \$470,000 to settle a U.S. EEOC sexual harassment and retaliation lawsuit, and argued that she had to leave her job with Bonneville because she had been subject to sexual harassment and was lied to about her salary, she is unable to pay her rent, and had sent a "prior fax explaining why I missed the hearing." The only issue before EAB, however, is whether or not claimant's late request to reopen the February 19, 2016 hearing should be allowed. We do not have jurisdiction over claimant's work separation from Bonneville. With respect to claimant's request to reopen, we agree with claimant that her prior fax explained the reason she missed the February 19th hearing. She did not, however, explain why she filed her request to reopen almost three months late. In the absence of any explanation as to why she filed her request to reopen almost three months late, claimant did not establish that her late request to reopen should have been allowed under OAR 471-040-0041

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 16-UI-62214 is affirmed.

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

DATE of Service: July 20, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.