

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0869

Late Application for Review Dismissed

PROCEDURAL HISTORY: On May 6, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 83407). On May 26, 2016, decision # 83407 became final without a request for hearing having been filed. On May 31, 2016, claimant filed an untimely request for hearing. On June 7, 2016, ALJ Kangas issued Hearing Decision 16-UI-61217, 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. On June 30, 2016, claimant responded to the appellant questionnaire and filed an untimely application for review of Hearing Decision 16-UI-61217 with the Employment Appeals Board (EAB).

ORS 657.270(6) required that claimant's application for review of Hearing Decisions 16-UI-61217 be filed no later than May 31, 2016. OAR 471-041-0065(1)(b) (October 29, 2006) provides the filing date of a mailed document is the postmark date on the envelope in which the document was mailed. The record shows that the postmark on the envelope in which claimant mailed his application for review was June 30, 2016, 30 days after the filing period ended. Claimant's application for review was therefore untimely.

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." With his application for review, claimant included a letter in which he provided a reason for failing to timely file his application for review: claimant was "looking for work out of town." It was well within claimant's reasonable control to arrange to have his mail forwarded or to arrange for a friend or family member to check his mail and notify him about any important correspondence, such as correspondence related to his unemployment benefits. Because claimant failed to demonstrate that any circumstances beyond his reasonable control prevented him from timely filing his application for review, it is dismissed as untimely.

DECISION: The application for review filed June 30, 2016 is dismissed. Hearing Decision 16-UI-61217 remains undisturbed.

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

DATE of Service: July 29, 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.