

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1019

Affirmed
Late Request to Reopen Denied

PROCEDURAL HISTORY: On May 4, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from March 27, 2016 to April 30, 2016 (decision # 130613). Claimant filed a timely request for hearing. On May 20, 2016, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for June 2, 2016. Claimant failed to appear at the hearing. On June 2, 2016, ALJ R. Frank issued Hearing Decision 16-UI-60930, dismissing claimant's hearing request for failure to appear. On June 22, 2016, Hearing Decision 16-UI-60930 became final without claimant having requested reopening or filing an application for review. On August 18, 2016, claimant filed a late request to reopen. On August 23, 2016, ALJ Kangas reviewed claimant's request and issued Hearing Decision 16-UI-66178, denying claimant's late request to reopen. On September 1, 2016, claimant filed an application for review of Hearing Decision 16-UI-66178 with the Employment Appeals Board (EAB).

EAB considered claimant's argument when reaching this decision. In his argument, as in his request to reopen, claimant explained that he missed the hearing because he was dealing directly with the Department about his work search, and mistakenly thought the notice of hearing had been mailed to him in error. However, neither claimant's argument to EAB, nor the statement he included with his late request to reopen, included any explanation why claimant waited until almost two months after the deadline expired before filing his request to reopen. Because claimant filed his request to reopen late, and did not show good cause to extend the deadline, we cannot consider the merits of his request to reopen. Notably, the outcome of this decision would remain the same even if we had considered the merits of claimant's request, as claimant failed to appear at the June 2, 2016 hearing in this matter because he did not understand the implications of the notice of hearing when he received it, and OAR 471-040-0040(2)(b) specifically states that good cause to reopen a hearing does not include "[n]ot understanding the implications of a . . . notice when it is received."

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-66178 is affirmed.

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

DATE of Service: September 7, 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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