

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1096

Late Application for Review Dismissed

PROCEDURAL HISTORY: On June 30, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct (decision # 81443). Claimant filed a timely request for hearing. On August 10, 2016, ALJ Seideman conducted a hearing, and on August 17, 2016, issued Hearing Decision 16-UI-65860, affirming the administrative decision. On September 6, 2016, Hearing Decision 16-UI-65860 became final, without an application for review having been filed. On September 22, 2016, claimant filed an untimely application for review with the Employment Appeals Board (EAB).

CONCLUSION AND REASONS: Claimant's late application for review of Hearing Decision 16-UI-65860 is dismissed.

ORS 657.270(6) required that claimant's application for review of Hearing Decision 16-UI-65860 be filed no later than September 6, 2016. Claimant filed his application for review on September 22, 2016. The application for review therefore was late. 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. "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(2)(a). "A reasonable time" is seven days after the circumstances that prevented timely filing ceased to exist. OAR 471-041-0070(2)(b). 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."

In his application for review, claimant asked that his late filing be excused because "[b]eing on hard times, homeless and financially broke. Simple thing as responding are extremely complicated." Claimant failed to provide any specific details about the reasons for his late application for review, *i.e.*, when he received the decision, how his difficult personal and financial situation prevented him from timely filing his application for review, and whether he filed his application for review within seven days after the circumstances that prevented his timely filing ceased to exist. Without this information, we have no reason to conclude that claimant had good cause for filing an untimely application for review.

DECISION: The application for review filed September 22, 2016 is dismissed. Hearing Decision 16-UI-65860 remains undisturbed.

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

DATE of Service: September 26, 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.