

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0022-R**

*Reconsideration Granted*  
*Appeals Board Decision 2017-EAB-0022 Adhered to on Reconsideration*

**PROCEDURAL HISTORY:** On November 9, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision #105214). Claimant filed a timely request for hearing. On December 8, 2016, ALJ Hall conducted a hearing, and issued Hearing Decision 16-UI-72577, affirming the administrative decision. On December 28, 2016, Hearing Decision 16-UI-72577 became final, without an application for review with the Employment Appeals Board (EAB) having been filed. On January 3, 2017, claimant filed an untimely application for review, which did not explain why the application was late. On January 6, 2016, EAB issued EAB Decision 2017-EAB-0022, dismissing claimant's application for review as untimely without a showing of good cause. On January 23, 2017, claimant submitted a letter explaining why her application for review was not timely filed. EAB will exercise its discretion under ORS 657.290(3) to reconsider EAB Decision 2017-EAB-0022.

**CONCLUSION AND REASONS:** Claimant's request for reconsideration is granted. We adhere to EAB Decision 2017-EAB-0022.

ORS 657.270(6) required that claimant's application for review of Hearing Decision 16-UI-72577 be filed no later than December 28, 2016. Because claimant filed her application for review on January 3, 2017, it 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).

In her January 23 letter, claimant explained that although she prepared the application for review and "had it ready to go out in the mail," she was delayed in mailing the application for review due to a "family emergency." Claimant failed to provide any details about the nature of her family emergency and did not explain how it prevented her from promptly mailing her application for review. Without these details, we have no reason to conclude that circumstances beyond claimant's reasonable control

prevented her from filing her application for review by December 28, 2016. We therefore adhere to our original decision to dismiss her application for review as untimely.

**DECISION:** Reconsideration is granted. EAB Decision 2017-EAB-0022 is adhered to on reconsideration.

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

**DATE of Service: January 27, 2017**

**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](http://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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