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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0123

Dismissed
Late Applications for Review Dismissed

PROCEDURAL HISTORY: On June 28, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 72026). On July 18, 2016, 2016, decision # 72026 became final without claimant having filed a late request for hearing. On October 3, 2016, the Department served notice of an administrative decision, based on decision # 72026, concluding that claimant received \$1,631 in benefits to which was not entitled and must repay, was disqualified for 12 weeks of future benefits, and assessed a \$244.65 monetary penalty (decision # 194275). On October 14, 2016, claimant filed a late request for hearing on decision # 72026 and a timely request for hearing on decision # 194275. On December 9, 2016, ALJ Vincent conducted hearings, and on December 16, 2016 issued Hearing Decision 16-UI-73070 dismissing claimant's late request for hearing on decision # 72026, and Hearing Decision 16-UI-73077 concluding that claimant received \$1,631 in benefits to which he was not entitled and must repay, but was not disqualified from future benefits or assessed a monetary penalty. On January 5, 2017, Hearing Decisions 16-UI-73070 and 16-UI-73077 became final without claimant having filed applications for review with the Employment Appeals Board (EAB). On February 1, 2017, claimant filed late applications for review of Hearing Decisions 16-UI-73070 and 16-UI-73077.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 16-UI-73070 and 16-UI-73077. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2017-EAB-0123 and 2017-EAB-0124).

CONCLUSIONS AND REASONS: Claimant's late applications for review of Hearing Decisions 16-UI-73070 and 16-UI-73077 are dismissed.

ALJ Vincent issued Hearing Decisions 16-UI-73070 and 16-UI-73077 on December 16, 2016. ORS 657.270(6) required claimant's applications for review to be filed no later than January 5, 2017. They were filed on February 1, 2017, and were therefore 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 his applications for review, claimant asserted that they were late because "too much snow" created a "state of emergency" that left him "no way to get to town." However, claimant's assertions are insufficient to show that the inclement weather prevented him filing his applications for review for almost 40 days, or that he filed his applications for review within seven days after the inclement weather that allegedly prevented timely filing ceased to exist. Absent such showings, claimant failed to establish good cause to extend the filing period to 47 days after Hearing Decisions 16-UI-73070 and 16-UI-73077 were mailed to him.

DECISION: The applications for review filed February 1, 2017 are dismissed. Hearing Decisions 16-UI-73070 and 16-UI-73077 remain undisturbed.

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

DATE of Service: February 8, 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. 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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