

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0338

Late Application for Review Dismissed

PROCEDURAL HISTORY: On December 7, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 141340). Claimant filed a timely request for hearing. On January 11, 2017, ALJ Frank conducted a hearing, and on January 13, 2017, issued Hearing Decision 17-UI-74704, affirming the administrative decision. On February 2, 2017, Hearing Decision 17-UI-74704 became final, without an application for review having been filed with the Employment Appeals Board (EAB). On March 17, 2017, claimant filed an application for review with EAB.

CONCLUSIONS AND REASONS: Claimant's late applications for review of Hearing Decision 17-UI-74704 is dismissed.

Hearing Decision 17-UI-74704 was issued on January 13, 2017. ORS 657.270(6) required that claimant's application for review be filed no later than February 2, 2017. Because claimant's application for review was filed on March 17, 2017, it was late. OAR 471-041-0070 (August 30, 2011) provides that the period for filing an application for review 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).

With her application for review, claimant included a written statement in which she explained

...I didn't request a hearing prior to this due to the issues I was experiencing due to the emotional trauma caused at my previous employer. Additionally, I had to move because of financial issues, therefore I didn't claim during that time.

We assume that claimant's statement regarding her failure "request a hearing prior to this" refers to her delay in filing her application for review. Claimant does not specify what issues she was experiencing due to the emotional trauma, or explain why or how those issues, or her move due to unspecified financial issues, prevented her from timely filing her application for review. Nor does claimant explain

when the circumstances that allegedly prevented her from filing an application for review changed, so that she became able to file her application for review. Claimant therefore has not demonstrated good cause for failing to file a timely application for review, or that she filed her application for review within a reasonable time after the circumstances that allegedly prevented her from doing so ceased to exist. Claimant's application for review is therefore dismissed.

DECISION: The application for review filed March 17, 2017 is dismissed. Hearing Decision 17-UI-74704 remains undisturbed.

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

DATE of Service: March 22, 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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