

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0502

Late Application for Review Dismissed

PROCEDURAL HISTORY: On December 23, 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 # 105537). On January 12, 2017, decision # 105537 became final without claimant having requested a hearing. On February 14, 2017, claimant filed a late request for hearing. On February 21, 2017, ALJ Kangas issued Hearing Decision 17-UI-77378, dismissing claimant's request for hearing subject to her right to renew her request by filing a response to an appellant questionnaire by March 7, 2017. Claimant filed a timely response to the appellant questionnaire. ALJ Kangas considered claimant's response, and on March 16, 2017 issued Hearing Decision 17-UI-79079, re-dismissing claimant's request for hearing as untimely without good cause. On April 5, 2017, Hearing decision 17-UI-79079 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On May 1, 2017, claimant filed a late application for review with EAB.

CONCLUSIONS AND REASONS: Claimant failed to establish that she filed her application for review late with good cause and within a reasonable time, and her application therefore is dismissed.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the decision for which review is sought. OAR 471-041-0070(1) (March 20, 2014). The 20 day filing period may be extended a "reasonable time" upon a showing of "good cause." ORS 657.875; OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing OAR 471-040-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0050(2)(b).

In written argument, claimant provided new information regarding her failure to file a request for hearing on decision # 105537 by January 12, 2017, but no information regarding her failure to file her application for review of Hearing Decision 17-UI-79079 by April 5, 2017. Absent such information, claimant failed to establish that she filed her application for review late with good cause and within a reasonable time. Claimant's application for review of Hearing Decision 17-UI-79079 therefore is dismissed.

DECISION: The application for review filed May 1, 2017 is dismissed. Hearing Decision 17-UI-79079 remains undisturbed.

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

DATE of Service: May 4, 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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