

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0634

Affirmed
Request for Hearing Dismissed

PROCEDURAL HISTORY: On January 7, 2011, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work during the weeks of November 28, 2010 through December 11, 2010 (decision # 122847). That decision stated that a request for hearing needed to be filed on or before January 27, 2011. On April 28, 2017, claimant filed an untimely request for hearing. On May 3, 2017, ALJ Kangas issued Decision 17-UI-82479, dismissing claimant's hearing request subject to reconsideration if claimant completed and filed the Appellant Questionnaire enclosed with Decision 17-UI-82479 within 14 days of the date that decision was mailed. On May 22, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Claimant's request for hearing is dismissed.

ORS 657.269 provides that the Department's decisions become final unless a party files a request for hearing within 20 days after the date it is mailed. ORS 657.875 provides that the 20-day deadline may be extended a "reasonable time" upon a showing of "good cause." OAR 471-040-0010 (February 10, 2012) provides that "good cause" for extending the period in which a request for hearing may be filed includes factors beyond an applicant's reasonable control or an excusable mistake, and defines "reasonable time" as seven days after those factors ceased to exist.

Although requested to do so in Decision 17-UI-82479, claimant did not file a completed Appellant Questionnaire explaining why her request for hearing on decision # 122847 was delayed for over six years. Absent such explanatory information, there is insufficient evidence for EAB to conclude either that claimant had good cause for failing to timely file the request for hearing on decision # 122847 or that she filed her request for hearing within a reasonable time. Accordingly, claimant's request for hearing on decision # 122847 is dismissed.

DECISION: Hearing Decision 17-UI-82474 is affirmed.

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

DATE of Service: June 19, 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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