

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0755

Application for Review Dismissed
(Solicitud de revisión denegada)

PROCEDURAL HISTORY: On March 27, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from December 18, 2016 to January 14, 2017 (decision # 74048). On April 17, 2017, decision # 74048 became final without claimant having filed a timely request for hearing. On April 19, 2017, ALJ Kangas issued Hearing Decision 17-UI-81627, dismissing claimant's late request for hearing subject to claimant's right to renew the request by responding to an appellant questionnaire no later than May 8, 2017. Claimant did not file a timely response to the questionnaire. On May 15, 2017, Hearing Decision 17-UI-81627 became final without claimant having filed a timely application for review with EAB. On June 21, 2017, claimant filed a late application for review and late questionnaire response with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Claimant's late application for review must be dismissed.

ORS 657.270(6) required claimant's application for review to be filed no later than May 15, 2017; it was filed on June 21, 2017 and was therefore late. The deadline for filing an application for review may be extended a reasonable time upon a showing of good cause. ORS 657.975; OAR 471-041-0070 (October 29, 2006). "Good cause" means circumstances beyond claimant's reasonable control. OAR 471-040-0070(2)(a). A "reasonable time" means "seven days after the circumstances that prevented a timely filing ceased to exist." OAR 471-041-0070(2)(b).

Claimant indicated on the application for review and questionnaire that claimant filed the application for review after the deadline because claimant's mail was stolen, which was likely a circumstance beyond claimant's reasonable control. Claimant has therefore shown good cause to extend the filing period a reasonable time, which means that the filing period may be extended no more than seven days after claimant found out that the hearing decision and questionnaire existed. Nothing in the materials claimant submitted suggested or implied what date claimant found out that the hearing decision and questionnaire existed, or how long claimant waited after that occurred before filing the late application for review in this case. We therefore have no way of knowing whether or not claimant filed the application for review in this case within seven days of when the circumstances that had prevented a

timely filing ceased to exist. Because claimant has not established that her late application for review was filed within the seven day “reasonable time” period, the application for review must be dismissed.

DECISION: The application for review filed June 21, 2017 is dismissed. Hearing Decision 17-UI-81627 remains undisturbed. *La solicitud de revisión presento en June 21, 2017 es sobreseído. Decisión de la Audiencia 17-UI-81627 queda no afectada.*

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

DATE of Service: June 26, 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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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

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