

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0794**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On March 17, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$4,438 overpayment, \$1,331.40 monetary penalty and 34 penalty weeks (decision # 195289). On April 6, 2017, decision # 195289 became final without claimant having filed a timely request for hearing. On May 9, 2017, claimant filed a late request for hearing. On June 19, 2017, ALJ Lohr conducted a hearing, and on June 20, 2017 issued Hearing Decision 17-UI-86168, dismissing claimant's late request for hearing. On June 30, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** Claimant did not promptly receive decision # 195289 after it was mailed because the resident at the address where he received his mail was out of town for a family emergency. On April 27 or April 28, 2017, claimant received the administrative decision, read it and disagreed with it. He then waited 11 or 12 days before he filed a late request for hearing.

**CONCLUSIONS AND REASONS:** We agree with the ALJ that claimant's late request for hearing must be dismissed.

Under ORS 657.269 claimant had 20 days after decision # 195289 was mailed to him to file a timely request for hearing. Claimant did not file his request within that period, making his request late. ORS 657.875 allows the 20-day time period to be extended a "reasonable time" upon a showing of "good cause." A "reasonable time" is defined as 7 days after the circumstances that prevented a timely filing ceased to exist. OAR 471-040-0010(3) (February 10, 2012).

The circumstance that had prevented claimant from filing a timely request for hearing was that he did not receive the decision due to his friend's family emergency. That circumstance ceased to exist on April 27 or April 28 when claimant received the decision. Claimant then waited 11 or 12 days before he filed his late request for hearing. Because claimant waited more than 7 days after the circumstances that prevented a timely filing ceased to exist, he did not file his late request for hearing within a "reasonable time" and his request for hearing must be dismissed.

**DECISION:** Hearing Decision 17-UI-86168 is affirmed.

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

**DATE of Service:** July 12, 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](http://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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.