

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1094

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On July 10, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 111707). On July 31, 2017, decision # 111707 became final without claimant having filed a request for hearing. On August 3, 2017, claimant filed a late request for hearing. On August 8, 2017, ALJ Kangas issued Hearing Decision 17-UI-89876, dismissing claimant's late request for hearing subject to claimant's right to renew the request by responding to an appellant questionnaire by August 22, 2017. On August 15, 2017, claimant submitted to OAH a timely response, but without answering any of the questionnaire's questions or providing any information regarding why his request for hearing was filed late. On August 29, 2017, ALJ Kangas issued Hearing Decision 17-UI-91372, re-dismissing claimant's request for hearing as untimely without a showing of good cause. On September 13, 2017, claimant filed a timely application for review of Hearing Decision 17-UI-91372.

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

Under ORS 657.269, claimant's request for hearing on decision # 111707 was required to be filed by July 31, 2017. Claimant filed the hearing request on August 3, 2017, making the request late. Under ORS 657.875, the deadline for requesting a hearing may be extended "a reasonable time" upon a showing of good cause. "Good cause" exists when an action, delay, or failure to act arises from an excusable mistake or from factors beyond an applicant's reasonable control. OAR 471-040-0010(1) (February 10, 2012). "A reasonable time," is seven days after the circumstances that prevented a timely filing ceased to exist. OAR 471-040-0010(3).

Although claimant's response to Hearing Decision 17-UI-89876 was timely, he did not answer any of the appellant questionnaire's questions or provide any information regarding why he filed his request for hearing concerning decision # 111707 after the July 31, 2017 deadline stated in that decision. Because claimant failed to show that an excusable mistake or factors beyond his reasonable control caused the late filing, he failed to meet his burden to establish good cause for doing so. Accordingly, his request for hearing must be dismissed.

DECISION: Hearing Decision 17-UI-91372 is affirmed.

J. S. Cromwell and D. P. Hettle.

DATE of Service: September 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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