

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1125**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On July 6, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 150513). Claimant filed a timely request for hearing. On August 23, 2017, ALJ Meerdink conducted a hearing and issued Hearing Decision 17-UI-91031, affirming the Department's decision. On September 12, 2017, Hearing Decision 17-UI-91031 became final without claimant having filed an application for review. On September 14, 2017, claimant filed an untimely application for review of Hearing Decision 17-UI-91031 with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** Claimant's untimely application for review is dismissed.

An application for review is timely if it is filed within 20 days of the date that the Office of Administrative Decisions (OAH) mailed the decision for which review is sought. OAR 471-041-0070(1) (March 20, 2014). Claimant's application for review was filed on September 14, 2017, which was two days after the filing deadline. The 20 day filing period may be extended a "reasonable time" upon a showing of "good cause." 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).

While claimant explained in a submission accompanying the late application for review that it was not timely filed because she "didn't understand the importance of filing [it] before its due date" and because she was "stressed" and "depressed" about her disqualification from unemployment benefits, neither reason constitutes good cause for the late filing. It was within claimant's reasonable control to read carefully the instructions for seeking review set out in Hearing Decision 17-UI-91031 and to comprehend that there might be serious consequences to not filing a timely application for review, including that the application for review would be dismissed and EAB would not review the merits of the Hearing Decision 17-UI-91031. In addition, while it is understandable that claimant might have had an adverse emotional response to the outcome of Hearing Decision 17-UI-91031 on her claim for benefits, claimant did not assert or show that the depression and stress she allegedly experienced was so severe that she was unable to understand that there was a deadline for filing the application for review,

what that deadline was, and to appreciate the reasonably foreseeable consequences of an untimely filing. Because claimant did not show good cause for the untimely filing of her application for review with EAB, the application for review is dismissed.

**DECISION:** The application for review filed on September 14, 2017 is dismissed. Hearing Decision 17-UI-91031 remains undisturbed.

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

**DATE of Service:** September 22, 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.

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