

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1216

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On March 28, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work during the weeks of January 1, 2017 through February 25, 2017 (decision # 85837). Claimant filed a timely request for hearing. On June 26, 2017, the Office of Administrative Hearings (OAH) served a Notice of Hearing setting the hearing on decision # 85837 for July 10, 2017, at which time claimant failed to appear. On July 11, 2017, ALJ Murdock issued Hearing Decision 17-UI-87613, dismissing claimant's request for hearing due to his failure to appear. The hearing decision stated that a request to reopen the hearing needed to be within 20 days of the mailing of the hearing decision, which was on or before July 31, 2017. On September 13, 2017, claimant filed a late request to reopen. On October 2, 2017, ALJ Kangas, having reviewed claimant's late request to reopen, and issued Hearing Decision 17-UI-93680 denying claimant's request to reopen due to claimant's failure to show good cause for its late filing. On October 17, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Claimant's late request to reopen is denied because claimant failed to show good cause for its late filing.

Hearing Decision 17-UI-87613, the decision that dismissed claimant's request for hearing due to his failure to appear at the scheduled hearing, stated that a request to reopen the hearing needed to be filed within 20 days of the mailing of that decision, which was on or before July 31, 2017, unless claimant showed good cause for a late filing. Hearing Decision 17-UI-93680, which denied claimant's late request to reopen, expressly stated that the request to reopen was denied because claimant's request did not explain why it was not filed within 20 days of the mailing of Hearing Decision 17-UI-87613, and thus claimant did not and could not show good cause for the late filing, or that factors or circumstances beyond his reasonable control caused the late filing as required by OAR 471-040-0041(2) (February 10, 2012). Although claimant submitted a brief statement to EAB on his application for review that addressed why claimant did not appear at the July 10, 2017 hearing, he again did not address why he filed his request to reopen late or set out any factors or circumstance showing, suggesting or tending to

suggest that he had good cause for that late filing. As a result, claimant's late request to reopen was and is properly denied.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 17-UI-93680 is affirmed.

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

DATE of Service: October 20, 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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