

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1489

Affirmed
Late Requests to Reopen Dismissed

PROCEDURAL HISTORY: On February 17, 2017, the Oregon Employment Department (the Department) served notice of three administrative decisions concluding that claimant was not available for work from January 8 through February 11, 2017 (decision # 111005), failed following Department rules when claiming benefits for the week of January 8 through 14, 2017 (decision # 112200), and quit working for the Sandy Home Care Services Inc. without good cause (decision # 95640). Claimant filed timely requests for hearing on all three decisions. On April 13, 2017, the Office of Administrative Hearings (OAH) served notice of hearings on the decisions scheduled for April 27, 2017. On April 27, 2017, claimant failed to appear at the hearings, and ALJ Frank issued Hearing Decisions 17-UI-82022, 17-UI-82025 and 17-UI-82036, dismissing claimant's requests for hearing due to her failure to appear. On May 17, 2017, Hearing Decisions 17-UI-82022, 17-UI-82025 and 17-UI-82036 became final without claimant having filed a request to reopen the hearings. On December 8, 2017, claimant filed late requests to reopen the hearings. On December 19, 2017, ALJ Kangas issued Hearing Decisions 17-UI-99286, 17-UI-99287 and 17-UI-99288, dismissing claimant's late requests to reopen as untimely without a showing of good cause. On December 22, 2017, claimant filed applications for review of Hearing Decisions 17-UI-99286, 17-UI-99287 and 17-UI-99288 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 17-UI-99286, 17-UI-99287, and 17-UI-99288. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2017-EAB-1489, 2017-EAB-1488 and 2017-EAB-1487).

With her applications for review, claimant submitted written argument containing new information regarding her failure to appear at the April 27, 2017 hearings, and her failure to file a timely request to reopen the hearings. However, claimant was required to set forth her reasons for filing her request to reopen late in a written statement when she filed her request. *See* OAR 471-040-0041(4) (February 10, 2012). EAB may consider claimant's new information only if she has established that factors or circumstances beyond her reasonable control prevented her from offering the information at that time. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). Claimant has failed to do so, and EAB therefore did not consider her new information when reaching this decision.

EAB reviewed all three hearing records. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 17-UI-99286, 17-UI-99287 and 17-UI-99288 are affirmed.

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

DATE of Service: December 29, 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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