

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1491

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On October 17, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work from April 30 through May 6, 2017 (decision # 171852). On November 6, 2017, decision # 171852 became final without claimant having filed a request for hearing. On November 9, 2017, claimant filed a late request for hearing. On November 15, 2017, ALJ Kangas issued Hearing Decision 17-UI-96900, dismissing claimant's request for hearing subject to his right to renew his request by responding to an appellant questionnaire by November 29, 2017. On November 29, 2017, claimant filed a timely response to the appellant questionnaire. ALJ Kangas reviewed claimant's response to the appellant questionnaire, and December 6, 2017 issued Hearing Decision 17-UI-98416, re-dismissing claimant's request for hearing on decision # 171852 as untimely without good cause. On December 26, 2017, claimant filed a timely application for review of Hearing Decision 17-UI-98416 with the Employment Appeals Board (EAB).

EAB reviewed the entire hearing record and claimant's written argument. In his argument, as in his November 29, 2017 response to the appellant questionnaire, claimant asserted that he filed a late request for hearing on decision # 171852 because he mistakenly believed the deadline was November 9, 2017, and not November 6, 2017. However, we agree with the ALJ that claimant's mistake was not an "excusable" one, because it did not, for example, raise a due process issue or result from inadequate notice, reasonable reliance on another or the inability to follow direction despite substantial efforts to comply. We therefore agree with the ALJ that claimant's request for hearing is subject to dismissal as untimely without a showing of good cause.

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

DECISION: Hearing Decision 17-UI-98416 is affirmed.

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

DATE of Service: January 8, 2018

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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