

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0264

Application for Review Dismissed

PROCEDURAL HISTORY: On October 5, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 92900). Claimant filed a timely request for hearing. On November 15, 2017, ALJ Clink conducted a hearing, and on November 16, 2017 issued Hearing Decision 17-UI-96968, affirming the Department’s decision. On December 6, 2017, that decision became final without claimant having filed a timely application for review with the Employment Appeals Board (EAB). On March 12, 2018, claimant filed an application for review with EAB that included a written statement explaining why she filed a late application for review.

CONCLUSIONS AND REASONS: Claimant’s late application for review should be dismissed.

ORS 657.270(6) provides that a hearing decision becomes final unless a party files an application for review of the decision within 20 days after it is mailed. ORS 657.875 provides that the deadline may be extended “a reasonable time” upon a showing of good cause. OAR 471-041-0070(2)(b) (February 18, 2012) defines “a reasonable time” as “seven days after the circumstances that prevented timely filing ceased to exist.”

Claimant filed a late application for review in this case due to circumstances related to domestic violence that appear likely to constitute “good cause” for extending the filing period. However claimant indicated that the circumstances that prevented her from filing a timely application for review ceased over a month prior to the date she filed her late application for review, which suggests it is more likely than not that claimant’s late application for review was not filed within the seven-day “reasonable time” period required by law. As such, claimant’s late application for review must be dismissed.

DECISION: The application for review filed March 12, 2018 is dismissed. Hearing Decision 17-UI-96968 remains undisturbed.

J. S. Cromwell and D. P. Hettle;
S. Alba, not participating.

DATE of Service: March 19, 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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