

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0489

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On October 11, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 95725). On October 31, 2017, decision # 95725 became final without claimant having filed a request for hearing. On January 22, 2018, claimant filed a late request for hearing on decision # 95725. On January 25, 2018, ALJ Kangas issued Order No. 18-UI-101717, dismissing claimant's request for hearing on decision # 95725 as untimely without a showing of good cause, subject to her right to renew the request by responding to an appellant questionnaire by February 8, 2018.

On January 31, 2018, the Department served notice of another administrative decision assessing a \$1,568 overpayment, \$235.20 monetary penalty and 11 penalty weeks (decision # 200678). On February 20, 2018, decision # 200678 became final without claimant having filed a timely request for hearing.

On February 6, 2018, the Office of Administrative Hearings (OAH) received claimant's timely response to the appellant questionnaire attached to Order No. 18-UI-101717. On February 14, 2018, OAH issued a letter stating that Order No. 18-UI-101717 was canceled and vacated and notifying the parties that a hearing would be scheduled to address the timeliness of claimant's hearing request and, if appropriate, the merits of decision # 95725; on February 15, 2018, OAH served notice that the hearing was scheduled for February 28, 2018. On February 28, 2018 ALJ Clink conducted a hearing, and on March 2, 2018 issued Order No. 18-UI-104355, re-dismissing claimant's request for hearing on decision # 95725 as untimely without good cause. On March 7, 2018, claimant filed an application for review of Order No. 18-UI-104355 with the Employment Appeals Board (EAB). On March 15, 2018, EAB issued Appeals Board Decision 2018-UI-0235, affirming Order No. 18-UI-104355.

On March 7, 2018, the Department mailed claimant a billing statement based upon decision # 200678. On March 19, 2018, claimant filed a late request for hearing on decision # 200678. On March 21, 2018, ALJ Kangas issued Order No. 18-UI-105669, dismissing claimant's late request for hearing on decision

200678, subject to her right to renew the request by responding to an appellant questionnaire by April 4, 2018.

On April 2, 2018, OAH received claimant's appellant questionnaire. On April 10, 2018, OAH issued a letter stating that Order No. 18-UI-105669 was canceled and vacated and notifying the parties that a hearing would be scheduled to address the timeliness of claimant's hearing request, and, if appropriate, the merits of decision # 200678. On April 11, 2018, OAH mailed notice of a hearing on claimant's late request for hearing on decision # 200678 scheduled for April 25, 2018. On April 25, 2018, ALJ Murdock conducted a hearing, and on April 27, 2018, issued Order No. 18-UI-108317, re-dismissing claimant's late request for hearing on decision # 200678. On May 8, 2018, claimant filed an application for review of Order No. 18-UI-108317 with EAB.

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

DECISION: Order No. 18-UI-108317 is affirmed.

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

DATE of Service: May 24, 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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