

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0600**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On April 30, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 142535). Claimant filed a timely request for hearing. On May 29, 2018, ALJ Murdock conducted a hearing, and on May 31, 2018, issued Order No. 18-UI-110435, affirming the Department's decision. On June 12, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

To be considered timely, the filing deadline for claimant's application for review of Order No. 18-UI-109593 was June 20, 2018. Claimant mailed his application for review to the Employment Appeals Board (EAB), as demonstrated by the stamped envelope; the envelope was not, however, postmarked. OAR 471-041-0065(2) provides that where the postmark date is "missing or unclear," "the filing date is the date that EAB determines to be the most probable date of filing." In this case, claimant signed and dated the application for review form on June 12, 2018, and EAB received the form in the mail on June 14, 2018. First class domestic mail sent through the U.S. Postal Service is typically estimated to take 1-3 days after mailing to be delivered.<sup>1</sup> We therefore conclude that claimant most probably mailed his application for review on June 12, 2018, and for that reason, the application for review was timely.

Claimant's written argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing, and claimant's argument to the extent it was based on that information, when reaching this decision.

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<sup>1</sup> We take notice of this generally cognizable fact. See <https://www.usps.com/ship/first-class-mail.htm>. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed fact will remain in the record.

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-110435 is affirmed.

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

**DATE of Service:** July 16, 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](http://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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