

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0678

*Application for Review Dismissed
Without Prejudice*

PROCEDURAL HISTORY: On September 16, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 132418). On October 7, 2013, decision # 132418 became final without claimant having filed a timely request for hearing. On June 18, 2018, claimant filed a late request for hearing. On June 26, 2018, ALJ Kangas issued Order No. 18-UI-112050, dismissing claimant's late request for hearing subject to his right to renew the request by responding to an appellant questionnaire by July 10, 2018. On July 2, 2018, claimant both timely responded to the appellant questionnaire and filed a timely application for review of Order No. 18-UI-112050 with the Employment Appeals Board (EAB). The matter of claimant's late request for hearing on decision # 132418 is currently open at the Office of Administrative Hearings (OAH) and pending review by an administrative law judge.

ORS 657.275 provides that EAB shall review the record of the case promptly and affirm, modify, or set aside the decision of the ALJ if the Director of the Department or any interested party files a timely application for review. However, it appears that claimant has initiated further proceedings at OAH and that this matter is not yet ripe for review. We therefore dismiss claimant's application for review without prejudice to allow the proceedings at OAH to be completed.

DECISION: The application for review filed July 2, 2018 is dismissed without prejudice. Order No. 18-UI-112050 remains undisturbed.

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

DATE of Service: July 9, 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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