

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0728**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On December 19, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 93401). Claimant filed a timely request for hearing. On January 31, 2018, ALJ Janzen conducted a hearing, and on February 1, 2018 issued Order No. 18-UI-102251, affirming the Department's decision. On February 21, 2018, Order No. 18-UI-102251 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On July 21, 2018, claimant filed a late application for review with the EAB.

**CONCLUSIONS AND REASONS:** Claimant's application for review of Order No. 18-UI-102251 is dismissed.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the order for which review is sought. OAR 471-041-0070(1) (March 20, 2014). The 20 day filing period may be extended a "reasonable time" upon a showing of "good cause." OAR 471-041-0070(2). "Good cause" means that factors or circumstances beyond the applicant's reasonable control prevented timely filing OAR 471-040-0070(2)(a). A "reasonable time" is seven days after the circumstances that prevented the timely filing ceased to exist. OAR 471-041-0050(2)(b).

Here, claimant filed her application for review of Order No. 18-UI-102251 five months late. In her application for review, claimant asserted that she initially chose not to appeal the order because the employer was not truthful during the hearing, which was "traumatizing" to her, and she "did not want" to interact with the employer during another appeal. However, that assertion fails to show that the January 31, 2018 hearing was so traumatizing that it was beyond claimant's reasonable control to file an application for review by February 21, 2018. And even if it did, claimant failed to show that the hearing was so traumatizing that she remained incapable of filing an application for review until July 14, 2018, and therefore filed her application for review within seven days after the circumstances that prevented a timely filing ceased to exist. In fact, claimant noted in her application for review that she moved to Texas and was informed that she could not apply for benefits there because her case is "still active" in Oregon, suggesting that she filed her application for review on July 21, 2018 for that reason, and not because the traumatizing effects of the January 31, 2018 hearing had only recently subsided.

In sum, claimant failed to establish good cause for her late application for review of Order No. 18-UI-102251, and that she filed her late application for review within a reasonable time. Claimant's application for review therefore is dismissed.

**DECISION:** The application for review filed July 21, 2018 is dismissed. Order No. 18-UI-102251 remains undisturbed.

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

**DATE of Service: July 25, 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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