

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0791**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On May 10, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not able, available, and actively seeking work (decision # 92755). Claimant filed a timely request for hearing. On May 31, 2018, claimant withdrew his request for hearing. On June 1, 2018, ALJ Scott issued Order No. 18-UI-110459, dismissing claimant's request for hearing and leaving decision # 92755 undisturbed. On June 21, 2018, Order No. 18-UI-110459 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On August 4, 2018, claimant filed a late application for review with the EAB.

**CONCLUSIONS AND REASONS:** Claimant's late application for review of Order No. 18-UI-110459 is dismissed as untimely without a showing of good cause.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the hearing order sought to be reviewed. 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). The applicant shall include with the application for review a written statement describing the circumstances that prevented timely filing. OAR 471-040-0070(3).

Here, claimant filed his application for review of Order No. 18-UI-110459 approximately a month and a half late. In his written argument claimant stated that he withdrew his request for the hearing scheduled on decision # 92755 because he had moved to California and planned to re-open his claim there. We infer that claimant did not file a timely application for review of Order No. 18-UI-110459 for the same reason, and/or because he failed to notify the Department of his change of address until July 23, 2018<sup>1</sup> and therefore was unaware of Order No. 18-UI-110459 until the deadline for filing an application for review had expired. However, claimant failed to show that was beyond his reasonable control to notify the

<sup>1</sup> We take notice of this fact, which is contained in Employment Department records. 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.

Department of his change address in time to file a timely application for review of Order No. 18-UI-110459, or file his application for review before the filing deadline expired. Claimant's application for review of Order No. 18-UI-110459 therefore is dismissed as untimely without a showing of good cause.

**DECISION:** The application for review filed August 4, 2018 is dismissed. Order No. 18-UI-110459 remains undisturbed.

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

**DATE of Service: August 17, 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.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.