

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0947

Late Applications for Review Dismissed

PROCEDURAL HISTORY: On June 8, 2018, the Oregon Employment Department (the Department) served notice of administrative decision # 111403 reducing claimant's benefits for May 13 through June 2, 2018 and administrative decision # 102045 denying claimant benefits for the same period. Claimant filed timely requests for hearing on both decisions. On July 13, 2018, ALJ Wyatt conducted a consolidated hearing, and on July 20, 2018 issued Orders No. 18-UI-113524 and 18-UI-113523, affirming decisions # 111403 and 102045. On August 9, 2018, Orders No. 18-UI-113524 and 18-UI-113523 became final without claimant having filed applications for review with the Employment Appeals Board (EAB). On September 12, 2018, claimant filed late applications for review with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders 18-UI-113524 and 18-UI-113523. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0948 and 2018-EAB-0947).

CONCLUSIONS AND REASONS: Claimant's late applications for review are dismissed.

An application for review is timely if it is filed within 20 days of the date that OAH mailed the decision 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).

In his applications for review, claimant apologized for the "last minute appeal," explaining that, "I have been busy trying to find a job and have been traveling out of Oregon on my job search." However, claimant's "last minute" appeals were filed over one month late. Claimant failed to show that traveling out of Oregon for his job search prevented timely filing, or that he filed his applications for review within a reasonable time, seven days, after he returned to Oregon. Claimant's late applications for review therefore are dismissed.

DECISION: The applications for review filed September 12, 2018 are dismissed. Orders No. 18-UI-113524 and 18-UI-113523 remain undisturbed.

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

DATE of Service: October 1, 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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