

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-1069**

*Late Application for Review Dismissed*

**PROCEDURAL HISTORY:** On September 7, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, not for misconduct (decision # 115653). The employer filed a timely request for hearing. On September 27, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for October 11, 2018. On October 11, 2018, ALJ Janzen conducted a hearing, at which claimant failed to appear, and on October 12, 2018 issued Order No. 18-UI-118083, concluding the employer discharged claimant for misconduct. On November 1, 2018, Order No. 17-UI-118083 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On November 13, 2018, claimant filed a late application for review with the EAB.

EAB considered claimant's argument when reaching this decision.

**FINDINGS OF FACT:** (1) The Office of Administrative Hearings (OAH) mailed claimant notice of Order No. 18-UI-118083 on October 12, 2018. On November 1, 2018, Order No. 17-UI-118083 became final without claimant having filed an application for review with EAB.

(2) On November 13, 2018, claimant filed a late application for review with the EAB. In his application for review claimant did not provide any explanation as to why he filed a late application for review with EAB.

**CONCLUSIONS AND REASONS:** Claimant's late application for review of Order No. 17-UI-118083 is 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). OAR 471-041-0065 (October 29, 2006). OAR

471-041-0070(3) requires that individuals filing late applications for review include with the late application “a written statement describing the circumstances that prevented a timely filing.”

Claimant was required to file his application for review of Order No. 17-UI-118083 no later than November 1, 2018. It was filed on November 13, 2018. Claimant did not provide any explanation as to why he filed his application 12 days after the filing deadline expired. Because claimant’s application for review was filed after the 20-day deadline provided by ORS 657.270(6), and good cause to extend the time allowed has not been shown, the application for review must be dismissed.

**DECISION:** The application for review filed November 13, 2018 is dismissed. Order No. 18-UI-118083 remains undisturbed.

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

**DATE of Service: November 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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