

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1081

Application for Review Dismissed

PROCEDURAL HISTORY: On August 24, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 143310). Claimant filed a timely request for hearing. On September 14, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for September 28, 2018. On September 28, 2018, claimant failed to appear at the hearing, and ALJ Amesbury issued Order No. 18-UI-117395, dismissing claimant's request for hearing due to his failure to appear. On October 15, 2018, claimant filed a timely request to reopen the hearing. ALJ Kangas considered claimant's request, and on October 17, 2018 issued Order No. 18-UI-118277, denying the request. On November 6, 2018, Order No. 18-UI-118277 became final without claimant having filed an application for review with the Employment Appeals Board (EAB). On November 19, 2018, claimant filed a late application for review with EAB.

CONCLUSIONS AND REASONS: Claimant's late application for review of Order No. 18-UI-118277 is dismissed.

ORS 657.270(6) required claimant's application for review of Order No. 18-UI-118277 to be filed no later than November 6, 2018. It was filed late on November 19, 2018. The filing period may be extended a "reasonable time" upon a showing of "good cause." OAR 471-041-0070(2) (October 29, 2006). "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 471-041-0070(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 failed to include such a statement with his late application for review. Because the application for review was filed after the 20-day deadline provided by ORS 657.270(6), and good cause to extend the filing period a reasonable time has not been shown, the application for review is dismissed.

DECISION: The application for review filed November 19, 2018 is dismissed. Order No. 18-UI-118277 remains undisturbed.

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

DATE of Service: November 28, 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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