

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0089-R

Affirmed
Disqualification

PROCEDURAL HISTORY: On October 30, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision #81419). Claimant filed a timely request for hearing. On January 10, 2014, ALJ Seideman conducted a hearing and issued Hearing Decision 14-UI-08361, affirming the Department's decision. On January 15, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

On February 5, 2014, EAB issued Appeals Board Decision 2014-EAB-0089, reversing Hearing Decision 14-UI-08361, and remanding the matter back to the Office of Administrative Hearings (OAH) for further proceedings because the hearing record was incomplete.¹ On February 12, 2014, the EAB the hearing record was completed by OAH's submission of the missing exhibits.

In her written argument, claimant states that she has "a witness that I would like to bring in for the hearing." Claimant has, therefore, asked to present new information that was not presented at the hearing. EAB will consider information on review that was not received into evidence at the hearing only when the party seeking to offer the information establishes that the information is relevant and material, and that factors or circumstances beyond the party's reasonable control prevented the party from offering the information at the hearing. OAR 471-041-0090(2) (October 29, 2006). Claimant asserts that she did not call a witness at the hearing because "I did not know I could bring in a co-worker." The Notice of Hearing claimant received for the January 10, 2014, hearing states that the ALJ will take testimony from witnesses at the hearing, and explains how to arrange for the testimony of any witness who the party wants to testify at the hearing. The Notice of Hearing also provides a phone number for a party to call with questions about the hearing. Claimant's failure to read and understand the Notice of Hearing is not a circumstance beyond her reasonable control that prevented her from offering the witness's testimony during the hearing. Accordingly, claimant's request to present new

¹ Exhibits 1 and 2, which were admitted into evidence, were missing from the record.

information is denied, and we only considered information received into evidence at the hearing when reaching this decision. ORS 675.275(2); OAR 471-041-0090 (October 29, 2006).

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-08361 is affirmed.

Susan Rossiter and Tony Corcoran;
D. E. Larson, not participating.

DATE of Service: February 26, 2014

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 website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.