

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0115

*Affirmed
Disqualification*

PROCEDURAL HISTORY: On November 12, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 163500). Claimant filed a timely request for hearing. On January 9, 2014, ALJ Micheletti conducted a hearing, and on January 10, 2014 issued Hearing Decision 14-UI-08350, affirming the Department's decision. On January 21, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant argued that the employer agreed not to contest her claim for unemployment insurance benefits. Regardless of any agreement by the parties, and regardless whether the employer agreed not to contest claimant's claim, the Department is obligated to examine each claim for benefits to determine whether the individual is subject to disqualification because of a work separation. ORS 657.176(1). Because claimant quit work, she has the burden to prove that she had good cause for quitting to avoid disqualification. ORS 657.179(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). Therefore, any agreement the employer might have made not to contest claimant's claim is not binding on the Department or the EAB, which is obligated by law and the circumstances of this case to determine whether claimant is, in fact, disqualified or not from receiving benefits.

EAB considered claimant's remaining arguments when reaching this decision.

EAB reviewed the entire hearing record.¹ On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

¹ In Hearing Decision 14-UI-08350, the ALJ asserted that he made an evidentiary ruling admitting "Exhibit 1" into the record of this case. Hearing Decision 14-UI-08350 at 1. However, the record before us does not include any exhibits or any discussion regarding any exhibits other than the parties' confirmation to the ALJ at the start of the hearing that no exhibits had been submitted for inclusion into the record. Audio Record at ~ 3:40 to 4:30. Based on that discussion, we take notice of the fact that no exhibits were offered or admitted into the record of this case. 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

DECISION: Hearing Decision 14-UI-08350 is affirmed

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

DATE of Service: February 19, 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.

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.