

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-0270**

*Reversed and Remanded*

**PROCEDURAL HISTORY:** On November 21, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct (decision # 75813). Claimant filed a timely request for hearing. On January 31, 2014, ALJ Sime conducted a hearing at which the employer did not appear, and on February 6, 2014, issued Hearing Decision 14-UI-10001, concluding that claimant was discharged but not for misconduct. On February 18, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its application for review, the employer states that it did not appear at the hearing because “[d]ue to no fault of the employer or the agency [representing the employer] the notice of hearing was sent to the wrong address.” The employer’s complaint is construed as a request to have EAB consider additional evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. The record shows that OAH sent the notice of hearing to the employer at 1231 Greenway Dr., St 800, Irving, TX 75038. The correct address of record however, is that of TALX UC Express, the agency that represents the employer; the address of TALX UC Express is PO Box 173860, Denver CO 80217 3860. OAH’s error caused the employer to fail to receive the hearing notice and is a circumstance beyond the employer’s reasonable control that prevented it from presenting evidence at the hearing. Accordingly, the employer’s request to present new information is granted. Hearing Decision 14-UI-10001 is reversed and this matter remanded pursuant to ORS 657.275(1) for a new hearing and hearing decision.

**DECISION:** Hearing Decision 14-UI-10001 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: March 5, 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.