

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-0471**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On February 18, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision #121410). Claimant filed a timely request for hearing. On March 18, 2014, ALJ R. Davis conducted a hearing, and on March 21, 2014 issued Hearing Decision 14-UI-13170, affirming the administrative decision. On March 25, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB. Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing and argument based on that information when reaching this decision.

ORS 657.275 provides that EAB shall review the record of the case and promptly affirm, modify, or set aside the decision of the ALJ if the Director of the Department or any interested party files a timely application for review. On March 26, 2014, EAB notified OAH that an application for review had been filed. The record is not yet complete,<sup>1</sup> and it appears that further proceedings are or may be necessary before the record can be provided. We therefore reverse Hearing Decision 14-UI-13170 as unsupported by a complete record, and remand for such other and further proceedings as may be necessary.

**DECISION:** Hearing Decision 14-UI-13170 is set aside, and this matter remanded for further proceedings consistent with this order.

<sup>1</sup> Pages 5 through 27 of Exhibit 2 are not readable due to poor copy or scan quality.

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

**DATE of Service: April 15, 2014**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 14-UI-13170 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

**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.