

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0504

*Application for Review Dismissed
Without Prejudice*

PROCEDURAL HISTORY: On January 31, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant but not for misconduct (decision # 74626). The employer filed a timely request for hearing. On March 14, 2014, ALJ Holmes-Swanson conducted a hearing, and on March 20, 2014, issued Hearing Decision 14-UI-13023, concluding the employer discharged claimant for misconduct. On March 24, 2014, claimant filed an objection with the Office of Administrative Hearings (OAH) to the admission of the employer's exhibit. On March 28, 2014, claimant filed an application for review with the Employment Appeals Board (EAB). On April 2, 2014, ALJ Holmes-Swanson issued a letter reopening the record until April 9, 2014, to allow the parties an opportunity to respond in writing to the exhibits that have been submitted.

CONCLUSIONS AND REASONS: Claimant's application for review is dismissed without prejudice.

ORS 657.275 provides that EAB shall review the record of the case promptly and 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. However, it appears the ALJ has initiated further proceedings at OAH and that this matter is not yet ripe for review. We therefore dismiss claimant's application for review without prejudice to allow the proceedings to be completed.

DECISION: The application for review filed March 28, 2014 is dismissed. Hearing Decision 14-UI-13023 remains undisturbed.

Susan Rossiter and Eric Larson;
Tony Corcoran, not participating.

DATE of Service: April 10, 2014

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 14-UI-13023 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.