

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0796

Reversed & Remanded

PROCEDURAL HISTORY: On March 26, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant filed late claims for benefits (decision # 81901). Claimant filed a timely request for hearing. On April 21, 2014, ALJ Clink conducted a hearing, and on April 28, 2014 issued Hearing Decision 14-UI-16228, affirming the Department's decision. On May 5, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

OAR 471-040-0023 (August 1, 2004) requires the Department to make an audio or stenographic record of any telephone hearing. We have examined the record in this matter and find that the audio recording of the April 21, 2014 hearing begins after the Department's witness testified. On information and belief, no recording of that witness's testimony exists. Because there is no audio or stenographic record of the full hearing conducted on April 21, 2014, the record before us is insufficient to support the findings contained in the hearing decision. The decision is therefore reversed, and the matter remanded for a new hearing and new decision.

DECISION: Hearing Decision 14-UI-16228 is set aside, and this matter remanded for further proceedings consistent with this order.

Tony Corcoran and J.S. Cromwell, *pro tempore*;
Susan Rossiter and D.E. Larson, not participating.

DATE of Service: May 27, 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.