

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0801

Reversed & Remanded

PROCEDURAL HISTORY: On February 11, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant but not for misconduct (decision # 115750). The employer filed a timely request for hearing. On April 7, 2014, the Office of Administrative Hearings issued notice of a hearing scheduled for April 18, 2014. On April 18, 2014, ALJ Murdock conducted a hearing in which the claimant did not participate, and issued Hearing Decision 14-UI-15546, concluding that claimant voluntarily left work without good cause. On May 8, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In her application for review, claimant stated that she failed to appear at the April 18 hearing because she did not receive the hearing notice. Claimant explained that “[a]round the same time the hearing paperwork would have been mailed I was having problems receiving my mail, an incident I wasn’t fully was [sic] aware was happening until recently.” Claimant further explained that “just this last week I arrived home to find an older gentleman digging through my mailbox.” Claimant asserted that problems with her mail have been resolved because her landlord installed a locking mailbox.

Claimant was not afforded a reasonable opportunity for a fair hearing because she failed to receive actual notice of the hearing due to problems with her mail caused by possible theft. *See* OAR 471-040-0015(1) (Notice of Hearing) (August 1, 2004). Under the authority granted to us by ORS 657.275(1), we reverse Hearing Decision 14-UI-15546 and remand the matter for a new hearing and a hearing decision.

DECISION: Hearing Decision 14-UI-15546 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: May 20, 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.