

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0927

Reversed and Remanded

PROCEDURAL HISTORY: On August 12, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 134333). The employer filed a request for hearing on February 4, 2014. On March 4, 2014, ALJ Kangas issued Hearing Decision 14-UI-11628, dismissing the employer's request for hearing as untimely, subject to the employer's "right to renew" the request by submitting a response to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed. On March 11, 2014, the Office of Administrative Hearings (OAH) received the employer's response. On April 15, 2014, OAH issued a notice of hearing scheduled for April 28, 2014. On April 28, 2014, ALJ S. Lee conducted a hearing, and on May 9, 2014 issued Hearing Decision 14-UI-17232, concluding the employer discharged claimant for misconduct. On May 29, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

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 May 29, 2014, EAB notified the Office of Administrative Hearings (OAH) that an application for review had been filed. The record is not yet complete,¹ and it appears that further proceedings are or may be necessary before the record can be provided. We therefore reverse Hearing Decision 14-UI-17232 as unsupported by a complete record, and remand this matter for such other and further proceedings as may be necessary to complete the record.

DECISION: Hearing Decision 14-UI-17232 is set aside, and this matter remanded for further proceedings consistent with this order.

Susan Rossiter and J. S. Cromwell;
Tony Corcoran, not participating.

DATE of Service: July 7, 2014

¹ The record does not contain marked Exhibits 1 and 2.

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 14-UI-17232 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 court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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