

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0990

Reversed & Remanded

PROCEDURAL HISTORY: On December 13, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 12515). Claimant filed a timely request for hearing. On February 18,¹ March 6, March 20, April 16, and April 25, 2014, ALJ S. Lee conducted a hearing, and on May 22, 2014, issued Hearing Decision 14-UI-18176, concluding that the employer discharged claimant, but not for misconduct. On June 6, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Hearing Decision 14-UI-18176 is reversed for lack of a complete record, and this matter remanded to OAH for further proceedings consistent with this order.

ORS 657.275 provides that EAB shall review the record of a 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. The record we received in this case is unorganized, contains numerous duplicate (and in some cases triplicate) documents, and also contains documents that are incorrectly identified. Consequently, the record is very difficult to review. In addition the record is incomplete. By letter dated February 5, 2014, the employer's attorney requested a postponement of the February 18, 2014 hearing; by letter dated February 6, 2014, claimant's attorney objected to the postponement. Because a hearing was held on February 18, 2014, the postponement request was obviously denied. There is no evidence in the record, however, to indicate who denied the postponement and when it was denied. In addition, employer exhibits 1-22 are missing from the record.

¹ No testimony was taken at the February 18, 2014 hearing.

The record in this matter is, therefore, not complete, and it appears that further proceedings are or may be necessary before the record can be provided. We reverse Hearing Decision 14-UI-18176 as unsupported by a complete record, and remand for such other and further proceedings as may be necessary.

DECISION: Hearing Decision 14-UI-18176 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: July 2, 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 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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