

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-0992**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On April 28, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant but not for misconduct (decision # 154719). The employer filed a timely request for hearing. On May 19, 2014, ALJ S. Lee conducted a hearing in which the claimant did not participate, and on May 27, 2014, issued Hearing Decision 14-UI-18429, concluding that the employer discharged claimant for misconduct. On June 6, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant explained that he failed to appear for the hearing “due to family member passing away. I returned to my home and picked up mail one day after the hearing was scheduled.” Due process requires that all parties be given and full opportunity for a fair hearing. Additional evidence is needed to determine if the situation claimant describes – death of a family member – constituted circumstances beyond claimant’s control that prevented him from participating in the hearing. Hearing Decision 14-UI-18439 is therefore reversed, and this matter remanded pursuant to ORS 657.275(1) for a new hearing and hearing decision on claimant’s failure to appear at the May 19, 2014 hearing. If the ALJ determines that claimant had good cause for failing to appear, the ALJ must also conduct a hearing and issue a hearing decision that addresses claimant’s failure to appear and the merits of the case. The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 14-UI-18439 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.

**DECISION:** Hearing Decision 14-UI-18429 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: June 17, 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](http://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 screen, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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