

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1148

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 8, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work with good cause (decision # 114856). The employer filed a timely request for hearing. On May 29, 2014, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for June 12, 2014, at 12:00 p.m. On June 12, 2014, ALJ Micheletti conducted a hearing in which claimant did not participate, and issued Hearing Decision 14-UI-19542, concluding that claimant voluntarily left work without good cause. On July 2, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In her application for review, claimant asks that her case be reopened because she “was never notified of a hearing date or time.” Claimant's request is construed as a request to have EAB consider new evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at hearing. In support of her request, claimant explains that she never received notice of the June 12, 2014 hearing.

The Office of Administrative Hearings mailed the notice of hearing to 1022 NE 181<sup>st</sup> Ave., Apt. 2d, Portland, OR 97230 which was and is claimant's address of record with the Department, and allowed adequate time for delivery. Documents sent through the US Postal Service are presumed to have been received by the addressee, subject to evidence to the contrary. OAR 137-003-0520 (January 31, 2012). Claimant provided no circumstantial evidence, such as evidence of previous problems she has experienced with mail delivery, that would support her implied assertion that her lack of notice resulted from a failure of the U.S. Postal Service to deliver the notice of hearing to her. Accordingly, claimant failed to demonstrate that circumstances beyond her reasonable control prevented her from participating in the hearing. Claimant's request to present new information is denied.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 14-UI-19542 is affirmed.

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

**DATE of Service:** July 23, 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 page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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