

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1248

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On April 24, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 140850). Claimant filed a timely request for hearing. On May 6, 2014, the Office of Administrative Hearings issued notice of a hearing scheduled for May 20, 2014, at 8:15 a.m. On May 20, 2014, ALJ Seideman conducted a hearing in which the employer did not participate, and issued Hearing Decision 14-UI-18003, concluding that claimant voluntarily left work with good cause. On June 6, 2014, the employer filed a timely request to reopen. On July 2, 2014, ALJ Wyatt conducted a hearing on the employer's request to reopen and on July 3, 2014, issued Hearing Decision 14-UI-20919, denying the employer's request. On July 22, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). In addition, the argument also contained a statement regarding the claimant's work separation information that was not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from offering the information at the hearing. In support of its request to have EAB consider new information, the employer stated that it was unable to participate in the May 20, 2014 hearing due to a "[t]echnical difficulty" that was unforeseeable. The employer asserted that on May 20, its representative called the telephone number the hearing notice instructed it to call, entered the appropriate access code, and was "on silence for an extended period of time." In accordance with the hearing notice, which instructs a party to call 1-800-311-3394 if no ALJ appears on the line within five minutes of the scheduled start time, the employer's representative stated that she called 1-800-311-3394 "several times."

The employer provided no details regarding the failed attempt of its representative to participate in the May 20, 2014 hearing, e.g., how long the representative waited on the line before calling for assistance, and what response, if any, she received when she called 1-800-311-3394. Without additional details, we

have no basis on which to conclude that the employer's failure to participate in the May 20, 2014 hearing was a circumstance beyond its reasonable control. We also agree with the ALJ's conclusion that the employer failed to demonstrate good cause for reopening the May 20 hearing, and was, therefore, not entitled to an adjudication of the merits of claimant's work separation and an opportunity to present evidence in this matter. For these reasons, the employer's request to present additional evidence is denied and we considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

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-20919 is affirmed.

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

**DATE of Service:** August 14, 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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