

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1803-R

Request for Reconsideration Denied

PROCEDURAL HISTORY: On October 9, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (# 144402) concluding claimant was not available for work for the weeks of February 2, 2014 through February 15, 2014 (weeks 6-14 and 7-14), May 4, 2014 through May 10, 2014 (week 19-14), July 20, 2014 through July 26, 2014 (week 30-14), and September 7, 2014 through September 13, 2014 (week 37-14). Claimant filed a timely request for hearing. On November 5, 2014, ALJ Clink conducted a hearing, and on November 7, 2014 issued Hearing Decision 14-UI-28369, affirming the Department's decision. On November 18, 2014, claimant filed an application for review with the Employment Appeals Board (EAB). On December 8, 2014, EAB issued Appeals Board Decision 2014-EAB-1803, affirming the hearing decision under review.

On December 13, 2014, claimant filed a request for review of Board Decision 2014-EAB-1803. The EAB construes claimant's December 13 letter as a request for reconsideration.

CONCLUSION AND REASONS: Claimant's request for reconsideration and is denied.

Under OAR 471-041-0145(1) (October 29, 2006), a party may request reconsideration of an EAB decision to correct an error of fact or law, or to explain any unexplained inconsistency with a Department rule or practice, or an officially stated Department position.

In her December 13 request for reconsideration, claimant included copies of employer banquet schedules that were not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider information not included in the hearing record if the party offering the information shows that circumstances beyond the party's reasonable control prevented the party from presenting the information at hearing. In her December 13 request, claimant provided no explanation as to why the information in the request was not presented at hearing. Accordingly, we did not consider the new information in reaching this decision.

Also, in her December 13 request for reconsideration, claimant again argues that she verbally notified the banquet manager in April, 2013 that her availability was no longer restricted. Based on our review

of the evidence in the record, we hold that the ALJ did not err in making the findings of fact with which the claimant disagrees. Accordingly, claimant failed to demonstrate that by affirming Hearing Decision 14-UI-28369, EAB made an error of fact or law that would require reconsideration.

DECISION: Claimant's request for reconsideration is denied. Appeals Board Decision 2014-EAB-1803 and Hearing Decision 14-UI-28369 remain undisturbed.

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

DATE of Service: December 18, 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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