

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1911

### *Reversed & Remanded*

**PROCEDURAL HISTORY:** On November 5, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work with good cause (decision # 151043). The employer filed a timely request for hearing. On November 25, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for December 8, 2014. On December 8, 2014, ALJ Monroe conducted a hearing in which the claimant did not participate, and issued Hearing Decision 14-UI-30007, concluding that claimant voluntarily left work without good cause. On December 16, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In his application for review, claimant asked for a new hearing, asserting that he has a disability and receives social security disability. Claimant also submitted evidence regarding a possible medical condition that was relevant to the reasons for his work separation. Claimant's request is treated 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 participating in the hearing and presenting evidence. It appears that claimant's disability may have prevented him from participating in the hearing and presenting evidence regarding his work separation. In order to determine whether this is the case, we will reverse the hearing decision under review, and remand to the OAH for a hearing on whether claimant's disability constituted a circumstance beyond his control that prevented him from participating in the hearing. If the ALJ determines that circumstances beyond claimant's reasonable control prevented him from presenting evidence at the hearing, we direct the ALJ to then conduct a new hearing on the merits of claimant's work separation.

**DECISION:** Hearing Decision 14-UI-30007 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: December 29, 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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