

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0176

Affirmed
Late Request for Hearing Dismissed
Disqualification

PROCEDURAL HISTORY: On June 19, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 142103) which concluded the employer discharged claimant for misconduct. On July 9, 2014, administrative decision # 142103 became final without a request for hearing having been filed. On October 21, 2014, claimant filed a late request for hearing. On November 5, 2014, ALJ Kangas issued Hearing Decision 14-UI-28261, dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the requests by submitting responses to the "Appellant Questionnaire" attached to the hearing decisions within 14 days of the date the decisions were mailed.¹ On November 18, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On December 5, 2014, the OAH issued a "Cancellation of Hearing Decision" for Hearing Decision 14-UI-28261. On January 20, 2015, ALJ Vincent conducted a hearing, and on January 28, 2015 issued Hearing Decision 15-UI-32495, re-dismissing claimant's late request for hearing. On February 16, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). 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**.

¹ Hearing Decision 14-UI-28261.

DECISION: Hearing Decision 15-UI-32495 is affirmed. Administrative decision # 142103 remains undisturbed.

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

DATE of Service: February 27, 2015

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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