

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0213

Affirmed
Request to Reopen Denied
Disqualification

PROCEDURAL HISTORY: On November 21, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 84026). Claimant filed a timely request for hearing. On December 17, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for December 30, 2014 at 2:30 p.m. Claimant did not appear at the hearing. On December 30, 2014, ALJ Frank issued Hearing Decision 14-UI-31097, dismissing claimant's hearing request for failure to appear. On January 20, 2015, Hearing Decision 14-UI-31097 became final without a request to reopen or an application for review with the Employment Appeals Board (EAB) having been filed. On January 26, 2015, claimant filed a late request to reopen. On February 5, 2015, ALJ Kangas reviewed claimant's late request to reopen and issued Hearing Decision 15-UI-32979, denying claimant's request and leaving Hearing Decision 14-UI-31097 undisturbed. On February 24, 2014, claimant filed an application for review with the EAB.

On his application for review, claimant stated that he "missed the phone interview due to a funeral (death)." This information was never provided to OAH; in his motion to reopen, claimant asserted that he missed the hearing "[d]ue to the circumstances at the time! (no phone)." (Emphasis in the original). 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 presenting the information at the hearing, or, as in this case, to the OAH. Claimant presented no reason why he was unable to provide the information he asks to consider to the OAH by filing a timely motion to reopen. For this reason, his request to consider 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 15-UI-32979 is affirmed. Hearing Decision 14-UI-31097 remains undisturbed.

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

DATE of Service: March 2, 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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