

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0252

Reversed & Remanded

PROCEDURAL HISTORY: On January 16, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work with good cause (decision # 124723). The employer filed a timely request for hearing. On January 27, 2015, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for February 11, 2015. On February 11, 2015, ALJ Wyatt conducted a hearing in which the claimant did not participate, and issued Hearing Decision 15-UI-33752, concluding that claimant voluntarily left work without good cause. On March 5, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

In her application for review, claimant asserted that she missed the hearing because she did not receive notice of the hearing until February 13, 2015. Claimant explained that she lives in an apartment complex, and that because she and a neighbor have similar names, mail intended for claimant is sometimes mistakenly placed in the neighbor's mailbox. The neighbor is rarely home. Claimant stated that on February 13, the neighbor "gave me several pieces of mail, the hearing letter included."

Claimant's complaint is considered a request to have EAB consider additional evidence under OAR 471-040-0090 (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 presenting the information at the hearing. The misdirected notice of hearing and the neighbor's failure to promptly discover the notice and give it to claimant are circumstances beyond claimant's reasonable control. Claimant has shown good cause for presenting new information. It is therefore appropriate to reverse Hearing Decision 15-UI-33752 and remand the matter under ORS 657.275(1) for a new hearing and a hearing decision.

DECISION: Hearing Decision 15-UI-33752 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: March 13, 2015

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 15-UI-33752 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

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 Court of Appeals website at courts.oregon.gov. Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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