

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0285-R

Appeals Board Decision 2015-EAB-0285 Adhered To On Reconsideration
Affirmed
Ineligible

PROCEDURAL HISTORY: On January 8, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from September 28 to November 29, 2014 (decision # 121248). Claimant filed a timely request for hearing. On February 12, 2015, ALJ Seideman conducted a hearing, and on March 2, 2015, issued Hearing Decision 15-UI-34349, affirming the Department's decision. On March 14, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On May 1, 2015, EAB issued Appeals Board Decision 2015-EAB-0285, affirming Hearing Decision 15-UI-34349.

On April 1, 2015, claimant submitted written argument to EAB. On May 14, 2015, claimant requested reconsideration of Appeals Board Decision 2015-EAB-0285 because EAB failed to consider claimant's argument before issuing the decision. Under the discretion granted us by ORS 657.290(3), we will reconsider Appeals Board Decision 2015-EAB-0285.

In his argument, claimant presented new information that was not offered at hearing: a copy of one page of the employer's December 18, 2014 response to the Department's Notice of Claim Filed (Form 220). Under OAR 471-041-0090 (October 29, 2006), EAB has authority to consider new information if the party presenting the information shows that circumstances beyond the party's reasonable control prevented the party from offering the information at the hearing. Claimant provided no reason why he did not offer the information at hearing. Because claimant failed to show that circumstances beyond his reasonable control prevented him from providing the information at hearing, we will not consider this new information. EAB considered claimant's written argument and the evidence presented at hearing on reconsideration.

On reconsideration, EAB may make a new decision "to the extent necessary and appropriate for the correction of previous error of fact or law." ORS 657.290(3). We conclude that we made no error of fact or law in our original decision and therefore adhere to it.

DECISION: Reconsideration is granted. We adhere to our decision in Appeals Board Decision 2015-EAB-0285 as clarified herein.

Susan Rossiter and J. S. Cromwell;
D. P. Hettle, *pro tempore*, not participating.

DATE of Service: July 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 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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