

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0308-R

*EAB Decision 2015-EAB-3038 Adhered To On Reconsideration
Late Request for Hearing Dismissed
Disqualification*

PROCEDURAL HISTORY: On December 24, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant committed a disqualifying act (decision # 72432). On January 13, 2015, decision # 72432 became final without a request for hearing having been filed. On January 15, 2015, claimant filed a late request for hearing. On February 10, 2015, ALJ Kangas issued Hearing Decision 15-UI-33238, dismissing claimant's request for hearing on decision # 72432 as untimely, subject to claimant's "right to renew" the request by submitting responses to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.¹ On February 23, 2015, the Office of Administrative Hearings (OAH) received claimant's response. On March 4, 2015, ALJ Kangas reviewed claimant's response and issued Hearing Decision 15-UI-34480, cancelling Hearing Decision 15-UI-33238, and re-dismissing claimant's January 15, 2015 request for hearing. On March 13, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). March 30, 2015, EAB issued Appeals Board Decision 2015-EAB-0308, affirming the hearing decision under review. On April 7, 2015, claimant submitted a written "presentation of argument." We exercise our authority under ORS 657.290(3) and grant reconsideration to address issues raised in claimant's argument.

Under OAR 471-041-0145(1), EAB may reconsider a decision to correct an error of fact or law, or to explain any unexplained inconsistency with a Department rule or practice, or an officially stated Department position. In her "presentation argument," claimant provided argument regarding her separation from the employer, Shari's. However, the only issue before us in our review of Hearing Decision 15-UI-34480 was whether claimant had shown good cause for filing a late hearing request for the Department's administrative decision # 72432. We agreed with the ALJ that claimant did not show good cause for the late request for hearing. In her "presentation of argument", claimant asserted no errors of fact or law, or any unexplained inconsistency with a Department rule or practice, or an

¹ Hearing Decision 15-UI-33238.

officially stated Department position. Therefore, we adhere to the conclusion we reached in Appeals Board Decision 2015-EAB-0308.

DECISION: Reconsideration is granted. We adhere to Appeals Board Decision 2015-EAB-0308. Hearing Decision 15-UI-34480 remains undisturbed.

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

DATE of Service: April 15, 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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