

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0349

Reversed & Remanded

PROCEDURAL HISTORY: On February 10, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 82605). Claimant filed a timely request for hearing. On March 6, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for March 19, 2015. On March 19, 2015, ALJ Murdock conducted a hearing in which the employer did not participate, and on March 23, 2015, issued Hearing Decision 15-UI-35551, concluding that claimant left work with good cause. On March 30, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

In his application for review, the employer's general manager provided information about the claimant's work separation and explained that he did not participate in the hearing because he was attending an out of town business conference on March 19, 2015. The general manager stated that he attempted to re-schedule the hearing with the "unemployment hearing board," but was unable to do so because this office was unable to access the appropriate file by employee name or the name of the employer's company. The general manager's statement is considered a request to provide new information under OAR 471-041-0090 (October 29, 2006), which allows a party to present new information to EAB if the party demonstrates that circumstances beyond the party's reasonable control prevented the party from offering the information at the hearing.

Here, additional information is needed to determine if the circumstances that caused the employer's representative to miss the hearing were beyond the employer's reasonable control. It is necessary to know when the general manager learned he would be attending the March 19 business conference, whether the general manager was the only or best person with knowledge of the claimant's work separation, and when the general manager received the hearing notice or otherwise learned that the hearing was scheduled for March 19. It is also important to know on what date and at what time the general manager contacted "the unemployment hearing board" to request postponement of the hearing, what office or agency he contacted (or phone number he called, if he does not know the name of the office or agency), to whom the manager spoke, and specifically what the manager was told during the conversation about postponing the hearing.

We reverse and Hearing Decision 15-UI-35551 and remand this matter for a new hearing to pursue the inquiry described above regarding the circumstances that caused the employer to miss the hearing. If the ALJ determines that these circumstances were beyond the employer's reasonable control, the ALJ must then conduct a hearing on the merits of claimant's work separation.

DECISION: Hearing Decision 15-UI-35551 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: April 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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