

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0869

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On February 25, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision #104306) concluding that claimant was not able to work from April 13 through July 26, 2014 (weeks 16-14 through 30-16). On March 17, 2015, decision #104306 became final without a request for hearing having been filed. On May 1, 2015, claimant filed an untimely request for hearing. On May 11, 2015, ALJ Kangas issued Hearing Decision 15-UI-38228, dismissing claimant's request for hearing subject to his right to renew his request by responding to an appellant questionnaire within 14 days of the date the decision was mailed. Claimant timely returned the appellant questionnaire. By letter dated May 20, 2015, the Office of Administrative Hearings (OAH) cancelled and vacated Hearing Decision 15-UI-38228. On May 20, 2015, OAH issued notice of a hearing scheduled for June 4, 2015. On June 4, 2015, ALJ M. Davis issued Hearing Decision 15-UI-39531, dismissing claimant's hearing request for failure to appear. On June 19, 2015, claimant filed a request to reopen his hearing. On June 30, 2015, ALJ Kangas issued Hearing Decision 15-UI-40875, dismissing claimant's request to reopen. On July 18, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information about claimant's ability to work during the weeks covered by the administrative decision; this information was not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information only if it relevant and material to EAB's determination, and the party offering the information shows that circumstances beyond the party's reasonable control prevented it from presenting the information at a hearing. Evidence regarding claimant's availability for work is not relevant or material to the issue before us: whether claimant demonstrated good cause to reopen his hearings under OAR 471-040-0040(2)(February 10, 2012).

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-40875 is affirmed.

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

DATE of Service: July 22, 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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