

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1027

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On June 5, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision #85472). Claimant filed a timely request for hearing. On June 23, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for July 7, 2015. On July 7, 2015, ALJ Murdock issued Hearing Decision 15-UI-41143, dismissing claimant's request for a hearing for failure to appear. On July 27, 2015, Hearing Decision 15-UI-41143 became final, without a request to reopen or application for review having been filed. On August 3, 2015, claimant filed an untimely request to reopen the hearing. On August 7, 2015, ALJ Kangas issued Hearing Decision 15-UI-42686, dismissing claimant's request to reopen as untimely. On August 27, 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 that was not part of the record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information in the record when reaching this decision. *See* ORS 657.275(2). Even if we had considered the new information in the argument, it would not have affected the outcome of our decision. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information only if the party offering the information demonstrates that circumstances beyond its reasonable control prevented the party from presenting the information at hearing and the information is material and relevant to EAB's determination. At issue here is whether claimant has shown good cause for failing to file a request to reopen within 20 days of the date on which the hearing decision was mailed as required by OAR 471-040-0041(1)(a) (February 10, 2012). In his argument, claimant explained why he failed to appear at the July 7, 2015 hearing, but provided no explanation why he failed to file a timely request to reopen. The new information claimant now wants EAB to consider is therefore neither material nor relevant to our determination.

EAB reviewed the entire record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 15-UI-42686 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: September 3, 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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