

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1033-R

Reconsideration Granted
Appeals Board Decision 2015-EAB-1033 Adhered to on Reconsideration

PROCEDURAL HISTORY: On July 16, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision #122255). Claimant filed a timely request for hearing. On August 19, 2015, ALJ M. Davis conducted a hearing, and on August 20, 2015, issued Hearing Decision 15-UI-43270, concluding that claimant voluntarily left work with good cause. On August 27, 2015, the employer filed an application for review with the Employment Appeals Board (EAB). On September 4, 2015, EAB issued Appeals Board Decision 15-UI-1033, affirming Hearing Decision 15-UI-43270. Also on September 4, 2015, after EAB issued its decision, EAB received the employer's written argument. Under the authority granted to us by ORS 657.290(3), we will reconsider Appeals Board Decisions 2015-EAB-1033 to consider the employer's written argument.

CONCLUSION AND REASONS: The employer's request for reconsideration is granted. On reconsideration, we adhere to 2015-EAB-1033.

We begin our analysis by noting that the employer's argument contains new information which was not part of the hearing record. Under OAR 471-041-0090 (October 26, 2009), EAB may consider new information if the party offering the information demonstrates that circumstances beyond its reasonable control prevented the party from presenting the information at the hearing. Because the employer provided no explanation for its failure to offer the new evidence at the hearing, we will not consider it.

In its request for reconsideration, the employer contended that EAB erred when it affirmed the conclusion the ALJ reached in Hearing Decision 15-UI-43270: that because claimant's full-time employer transferred her to Rathdrum, Idaho, claimant had good cause to quit her part-time job with the employer in Hermiston, Oregon. (The distance between Hermiston and Rathdrum is 275 miles). The employer contended that claimant told her supervisor that she was quitting because she "didn't like living in Hermiston and wanted to move to Idaho." Written Argument at 1. The statement the employer

asserted claimant made to her supervisor is consistent with her sworn testimony at the hearing – that she no longer wanted to live in Hermiston because she wanted to continue full-time work in Idaho. We therefore find no contradiction between claimant’s testimony at the hearing and any explanation she may have given to her supervisor for quitting her job. 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. The employer has failed to demonstrate that EAB made any error of fact or law in Appeals Board Decision 2015-EAB-1033. We therefore find no basis for altering our previous decision in this matter.

DECISION: Reconsideration is granted. We adhere to Appeals Board Decisions 2015-EAB-1033 on reconsideration as clarified herein.

Susan Rossiter and J. S. Cromwell

DATE of Service: September 10, 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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