

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1095-R**

*Request for Reconsideration Granted*  
*Appeals Board Decision 2015-EAB-1095 Affirmed on Reconsideration*

**PROCEDURAL HISTORY:** On July 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 154638). Claimant filed a timely request for hearing. On August 18, 2015, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for August 24, 2015, at which time claimant failed to appear for the hearing. On August 24, 2015, ALJ M. Davis issued Hearing Decision 15-UI-43411, dismissing claimant's hearing request for failure to appear. On August 27, 2015, claimant filed a timely request to reopen. On September 2, 2015, ALJ Kangas reviewed claimant's request and issued Hearing Decision 15-UI-43821, denying claimant's request to reopen. On September 14, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On September 17, 2015, EAB issued Appeals Board Decision 2015-EAB-1095, affirming Hearing Decision 15-UI-43821. On October 2, 2015, claimant submitted a letter to EAB in which he provided information about his work separation. We will exercise our authority under ORS 657.290(3) to reconsider our decision to consider claimant's October 2 letter.

Because claimant failed to appear for the hearing he requested on decision # 154638, the decision that concluded the employer discharged him for misconduct, his hearing request was dismissed. The merits of this administrative decision could only be considered if the hearing was reopened. Claimant requested reopening; the ALJ considered his request and denied it in Hearing Decision 15-UI-43821, concluding that claimant failed to show good cause for reopening under OAR 471-040-0040 (February 10, 2012). Claimant then appealed this decision by filing an application for review with EAB. The only issue before EAB was whether claimant demonstrated good cause for reopening his hearing. EAB agreed with the ALJ that claimant had not shown good cause for reopening and affirmed her decision in Appeals Board Decision 2015-EAB-1095. Because the information about his work separation that claimant provided in his October 2, 2015 letter is neither relevant nor material to the issue presented to EAB – whether claimant had good cause to reopen his hearing – EAB will not consider it.

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. We find no error of fact or law in Appeals Board Decision 2015-EAB-1095 that requires correction and affirm the decision upon reconsideration.

**DECISION:** Reconsideration is granted. We adhere to Appeals Board Decision 2015-EAB-1095.

Susan Rossiter and J. S. Cromwell

**DATE of Service: October 7, 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](http://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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