

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1100

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On July 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 164810). Claimant filed a timely request for hearing. On July 28, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for August 11, 2015, at which time claimant failed to appear for the hearing. On August 11, 2015, ALJ Wyatt issued Hearing Decision 15-UI-42846, dismissing claimant's request for hearing for failure to appear. On August 14, 2015, claimant filed a timely request to reopen the hearing. On August 24, 2015, OAH issued notice of a hearing scheduled for September 8, 2015, at which claimant appeared. On September 8, 2015, ALJ R. Frank conducted a hearing, and on September 11, 2015 issued Hearing Decision 15-UI-44240, denying claimant's request to reopen. On September 15, 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). Therefore, we did not consider the argument when reaching this decision. Even if we had, the outcome would remain the same for the reasons that follow. In claimant's written argument, claimant expressed concern that the ALJ "questioned me like a common criminal why I missed the 1st Hearing" even though he "wrote [his] reason for missing the meeting when I filed for the first appeal" and the "2nd Hearing was granted." However, the second hearing was scheduled, in part, to develop a record about whether or not claimant had good cause for missing the first hearing, such that he should be allowed to submit information about the work separation. The notice of hearing mailed to claimant on August 24, 2015, scheduling the second hearing, stated that the issues to be considered at the second hearing included whether "the party requesting to reopen the hearing file the request within the 20-day time limit and have good cause for failing to appear at the hearing?" Therefore, claimant was on notice that he would be subjected to questioning about whether he had good cause for failing to appear at the first hearing, and, regardless whether or not the employer chose to attend the second hearing, the ALJ was required by law to question claimant about why he missed the first hearing. *See* ORS 657.270; OAR 471-040-0025. For the reasons explained in Hearing

Decision 15-UI-44240, we agree with the ALJ that claimant did not show good cause to reopen the August 11, 2015 hearing, and his request to reopen is, therefore, denied.

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-44240 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: September 18, 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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