

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1269

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On July 21, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 94411). Claimant filed a timely request for hearing. On August 12, 2015, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for August 26, 2015. On August 26, 2015, ALJ R. Frank convened a hearing, at which claimant failed to appear, and issued Hearing Decision 15-UI-43499, dismissing claimant's request for hearing for failure to appear. On September 3, 2015, claimant filed a request to reopen the August 26th hearing. On September 16, 2015, OAH mailed notice of a hearing scheduled for October 7, 2015. On October 7, 2015, ALJ Murdock conducted a hearing, and on October 14, 2015 issued Hearing Decision 15-UI-45861, denying claimant's request to reopen. On October 26, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

In written argument, claimant's daughter argued that claimant missed the August 26th hearing in this matter because his son, who translated English documents for claimant, was unavailable to translate the notice of hearing for claimant until August 28th, after the hearing was held, when it was too late for claimant to participate in the hearing. If accurate, the circumstance claimant's daughter described might well constitute good cause to reopen the hearing. However, the argument directly contradicts the evidence gathered at the October 7th hearing about claimant's reopen request, which included that, at some point prior to August 26th, claimant's wife reminded claimant that the hearing was scheduled for August 26th, and claimant subsequently forgot the date of the hearing and did not remember the date of the hearing until it was too late to participate. The written argument provided on claimant's behalf in this matter contradicts the evidence claimant provided at hearing, which has more probative value. Therefore, we will disregard the written argument. Based on the evidence in the record, and for the reasons explained in Hearing Decision 15-UI-45861, we agree with the ALJ that claimant did not show good cause to reopen the August 26th hearing, and his request must be 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-45861 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: October 28, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.