

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0041

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On September 4, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant failed to timely file claims for unemployment benefits (decision # 73423). Claimant filed a timely request for hearing. On November 10, 2015, the Office of Administrative Hearings issued notice of a hearing scheduled for November 30, 2015. On November 30, 2015, ALJ M. Davis issued Hearing Decision 15-UI-48481, dismissing claimant hearing request for failure to appear at the hearing. Claimant filed a timely request to reopen. On December 21, 2015, ALJ Kangas issued Hearing Decision 15-UI-49798, dismissing claimant's request to reopen. On January 11, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant included a statement in which she explained that she did not fail to appear at her hearing but that she "waited by the phone all day." As the ALJ noted, the hearing notice claimant received explained that she was required to call in for the November 30 hearing and included instructions for doing so. We agree with the ALJ, that it was well within claimant's reasonable control to read the hearing notice and these instructions, and that claimant's failure to do so was not a factor beyond her reasonable control or an excusable mistake.

EAB considered the entire record in this case. Under *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 15-UI-49798 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: January 14, 2016

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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