

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0048**

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On October 8, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 133758). Claimant filed a timely request for hearing. On October 22, 2015, the Office of Administrative Hearings issued notice of a hearing scheduled for November 5, 2015. On November 5, 2015, ALJ Dorr issued Hearing Decision 15-UI-47214, dismissing claimant's hearing request for failure to appear at the hearing. Claimant filed a timely request to reopen. On December 21, 2015, ALJ Holmes-Swanson conducted a hearing, and on December 23, 2015, issued Hearing Decision 15-UI-49926, denying claimant's request to reopen. On January 12, 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 considered claimant's argument, it would not have changed the outcome of this decision. In his argument, claimant asserted that the ALJ erroneously found that he missed his hearing because he (claimant) refused to read the notice of hearing he had received and was therefore unaware that he needed to call in for the hearing. Claimant contended that "I did not know I got the paperwork [the hearing notice] until long after I called in for the original hearing date. I did not know I got the paperwork because put my wife put it in with other papers and was lost, I never saw the paperwork until after the original hearing." At the hearing, however, claimant testified that his wife received the hearing notice, and put it in a pile "with a bunch" of other letters, and that claimant did not think to look in the pile of letters his wife had created. Audio Recording at 14:24. It was well within claimant's reasonable control to check the mail his wife accumulated, find important documents such as the hearing notice and read them. We therefore conclude, as did the ALJ, that claimant failed to show that circumstances beyond his reasonable control or an excusable mistake provided good cause for missing the November 5 hearing.

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-49926 is affirmed.

Susan Rossiter and J. S. Cromwell

**DATE of Service: January 15, 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](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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