

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0126

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On November 12, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant committed a disqualifying act (decision # 90251). Claimant filed a timely request for hearing. On November 25, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for December 9, 2015. On December 9, 2015, ALJ M. Davis issued Hearing Decision 15-UI-49076, dismissing claimant's hearing request for failure to appear at the hearing. On December 29, 2015, Hearing Decision 15-UI-49076 became final, without a request to reopen or an application for review having been filed. On January 19, 2016, claimant filed an untimely request to reopen. On January 26, 2016, ALJ Kangas issued Hearing Decision 16-UI-51716, dismissing claimant's request to reopen. On February 4, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted two written arguments to EAB – on February 4 and February 17, 2016. Claimant failed to certify that he provided a copy of his February 4 argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). We therefore did not consider this argument when reaching this decision. Claimant's February 17 argument explained why he believed he had not committed a disqualifying act. Because this argument was not material or relevant to the issue before us – whether claimant had good cause to file an untimely request to reopen under OAR 471-040-0041 (February 10, 2012) – we did not consider this argument in reaching this decision.

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

DECISION: Hearing Decision 16-UI-51716 is affirmed.

Susan Rossiter and J. S. Cromwell;
D. H. Hettle, not participating.

DATE of Service: February 18, 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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