

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0171

Reversed & Remanded

PROCEDURAL HISTORY: On December 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause (decision # 100613). Claimant filed a timely request for hearing. On February 3, 2016, ALJ Holmes-Swanson conducted a hearing, and on February 5, 2016 issued Hearing Decision 16-UI-52449, concluding claimant quit work with good cause. On February 10, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Hearing Decision 16-UI-52449 must be reversed as unsupported by a complete record, and this matter remanded.

ORS 657.275 provides that EAB shall review the record of the case and promptly affirm, modify, or set aside the decision of the ALJ if the Director of the Department or any interested party files a timely application for review. Because the record in this matter is not complete, however, we cannot complete review of the record. Specifically, the ALJ stated during the hearing that he admitted into the record Exhibit 1, described as a three minute, thirteen second digital audio video file titled "Freightliner Parody." See Audio recording at ~9:55 and 11:20; Transcript at 3; Hearing Decision 16-UI-52449 at 1. No such exhibit was included in the record transmitted to EAB by the Office of Administrative Hearings (OAH), nor is the exhibit contained in Department records available to EAB. Because it appears that further proceedings are or may be necessary before the record can be provided, we reverse Hearing Decision 16-UI-52449 as unsupported by a complete record, and remand for such other and further proceedings as may be necessary.

DECISION: Hearing Decision 16-UI-52449 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: March 1, 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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