

State of Oregon  
**Employment Appeals Board**  
875 Union St. N.E.  
Salem, OR 97311

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0288**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On January 6, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, not for misconduct (decision # 105052). The employer filed a timely request for hearing. On March 8, 2016, ALJ Wipperman conducted a hearing at which claimant failed to appear, and on March 8, 2016 issued Hearing Decision 16-UI-54614, concluding that claimant's discharge was for misconduct. On March 14, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

In her application for review, claimant asked for another hearing, stating that she failed to appear at the March 8, 2016 hearing because she was "very sick" that day. We construe claimant's request for another hearing as a request to offer new information under OAR 471-041-0090(2) (October 29, 2006), which states new information may be considered when the party offering the information establishes that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing. Here, claimant's apparent illness likely was a factor or circumstance beyond her reasonable control. However, we cannot determine whether claimant's illness prevented her from appearing at the hearing and offering her information into evidence at the time. Further inquiry is needed for consideration of that issue, including an inquiry into the nature of claimant's illness, whether it was so severe that she was too sick to participate in the hearing, and why she could not have requested a postponement.

We therefore reverse Hearing Decision 16-UI-54614, and remand this matter to the Office of Administrative Hearings (OAH) for a hearing on whether claimant had good cause for failing to appear at the hearing and offering her information into evidence, and, if so, whether she should be disqualified from receiving benefits based on her work separation from the employer.

**DECISION:** Hearing Decision 16-UI-54614 is set aside, and this matter remanded for further proceedings consistent with this order. *Decisión de la Audiencia 16-UI-54614 de la audiencia, y esta materia se remite para otros procedimientos constantes con esta orden.*<sup>1</sup>

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

**DATE of Service: March 22, 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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*NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en [courts.oregon.gov](http://courts.oregon.gov). En este sitio web, hay información disponible en español.*

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<sup>1</sup> **NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 16-UI-54614 or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.

*NOTE: La falta de cualquier partido de aparecer en la audiencia en la remisión no reinstalará el 16-UI-54614 de la decisión de la audiencia ni volverá esta materia a EAB. Solamente un uso oportuno para la revisión de la decisión subsecuente de la audiencia hará esta materia volver a EAB.*