

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0319

Affirmed
Request to Reopen Dismissed
No Disqualification

PROCEDURAL HISTORY: On October 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 80552). Claimant filed a timely request for hearing. On October 21, 2015, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for November 4, 2015, at which claimant failed to appear. On November 4, 2015, ALJ R. Frank issued Hearing Decision 15-UI-47148, dismissing claimant's hearing request for failure to appear. On November 4, 2015, claimant filed a request to reopen. On November 12, 2015, OAH mailed notice of a hearing scheduled for November 25, 2015. On November 25, 2015, ALJ R. Frank conducted a hearing, and on December 3, 2015, issued Hearing Decision 15-UI-48779, denying claimant's request to reopen. On December 23, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On December 28, 2015, EAB issued Appeals Board Decision 2015-EAB-1520, allowing claimant's request to reopen and remanding the case to OAH for a hearing on the merits of claimant's work separation.

On December 29, the OAH issued notice of a hearing scheduled for January 20, 2016. On January 20, 2016, ALJ Frank conducted a hearing at which the employer failed to appear, and on January 27, 2016, issued Hearing Decision 16-UI-51786, concluding that the employer discharged claimant, but not for misconduct. On February 11, 2016, the employer filed a request to reopen. Also on February 11, 2016, the employer filed an application for review of Hearing Decision 16-UI-51786 with the EAB. On February 24, 2016, ALJ Kangas issued Hearing Decision 16-UI-53648, dismissing the employer's request to reopen. On March 14, 2016, the employer filed an application for review of Hearing Decision 16-UI-53648 with EAB.

The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). We therefore did not consider the argument when reaching this decision.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 16-UI-51786 and 16-UI-53648. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2016-EAB-0292 and 2016-EAB-0319).

EAB reviewed the entire record in these cases. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decisions 16-UI-51786 and 16-UI-53648 are **adopted**.

DECISION: Hearing Decisions 16-UI-53648 and 16-UI-51786 are affirmed.

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

DATE of Service: March 23, 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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