

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0354**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On February 12, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 100702). Claimant filed a timely request for hearing. On March 15, 2016, ALJ Triana conducted a hearing in which the employer did not participate, and on March 18, 2016, issued Hearing Decision 16-UI-55330, concluding that the employer discharged claimant, but not for misconduct. On March 29, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer's representative included a letter in which he asks that the hearing be reopened "due to an untimely flat tire I had as I was returning from the woods after looking at a logging job. I had allowed enough time to drive back to the office but was significantly delayed." The employer's request is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party providing the information demonstrates that circumstances beyond the party's reasonable control prevented it from offering the information at the hearing. The flat tire of the employer's representative is a circumstance beyond the representative's control that prevented him from attending the hearing. The employer's request to present new information is therefore allowed. Due process of law requires that claimant be given the opportunity to respond to the employer's new information. Hearing Decision 16-UI-55330 is therefore reversed and the matter remanded pursuant to ORS 657.275(1) for a new hearing and hearing decision based upon the record of the proceeding before the ALJ.

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 16-UI-51604 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.

**DECISION:** Hearing Decision 16-UI-55330 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: April 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](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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