

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0781**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On May 19, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 135719). The administrative decision was sent to the employer at the following address of record: 4676 Commercial St SE, Ste 167, Salem OR 97302. Claimant filed a timely request for hearing. On June 1, 2016, the Office of Administrative Hearings (OAH) sent notice of a hearing scheduled for June 15, 2016, to the employer at the following address: 5676 Commercial St SE, Ste 167, Salem OR 97302. On June 10, 2016, the Notice of Hearing mailed to the employer was returned to OAH with the notations that there was “no such number.” On June 15, 2016, ALJ Turner conducted a hearing in which the employer did not participate, and issued Hearing Decision 16-UI-61809, concluding that the employer discharged claimant, but not for misconduct. OAH mailed the hearing decision to the employer at the 5676 Commercial SE, Ste 167 address. On June 30, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

With the application for review, the employer included a letter in which it explained that it missed the hearing because it never received the hearing notice and provided information regarding claimant’s work separation. OAR 471-040-0015(1) (August 1, 2004), provides that “[t]o afford all parties a reasonable opportunity for a fair hearing,” notice of the hearing will mailed at least five days in advance of the hearing to parties or their authorized agents at “their last known address as shown by the record of the [Department] Director.” Here, the record shows that OAH failed to mail notice of the June 15 hearing to the employer at its address of record. Instead of sending the notice to 4676 Commercial St SE, Salem, OAH sent the notice to 5676 Commercial St SE, Salem. OAH’s failure to mail the hearing notice to the employer at the employer’s last known address as shown by the Director denied the employer constitutional due process of law. Hearing Decision 16-UI-61809 must therefore be reversed, and this matter must be remanded pursuant to ORS 657.275(2) for a new hearing and hearing decision.<sup>1</sup>

<sup>1</sup> The letterhead on which the letter was written that the employer submitted with its application for review gave the employer’s address as follows: 637 Ash St, Myrtle Point, OR 97458. On remand, OAH must contact the employer to determine the correct address of record to which notice of the new hearing should be sent.

**DECISION:** Hearing Decision 16-UI-61809 is set aside, and this matter remanded for further proceedings consistent with this order.<sup>2</sup>

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

**DATE of Service: July 11, 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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<sup>2</sup> **NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 16-UI-61809 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.