

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0891**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On May 25, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant failed to register for work with the Department. On June 14, 2016, that decision became final without a timely request for hearing having been filed. On July 8, 2016, claimant filed a late request for hearing. On July 13, 2016, ALJ Kangas issued Hearing Decision 16-UI-63706, dismissing claimant's late request for hearing subject to her right to renew the request by responding to an appellant questionnaire by July 27, 2016. On July 30, 2016, claimant responded to the appellant questionnaire and filed a timely application for review with the Employment Appeals Board (EAB). On August 1, 2016, the Office of Administrative Hearings (OAH) notified claimant that OAH would not consider her appellant questionnaire because it was late, and Hearing Decision 16-UI-63706 remained undisturbed.

**EVIDENTIARY MATTER:** For purposes of EAB's review in this matter, claimant's appellant questionnaire constitutes an "[e]xhibit[] offered, but not received into evidence," which EAB may "receive[] into evidence as necessary to complete the record." OAR 471-041-0090(1) (October 29, 2006). The appellant questionnaire is therefore marked as EAB Exhibit 1, and admitted into the record.

**CONCLUSIONS AND REASONS:** Hearing Decision 16-UI-63706 is reversed, and this matter remanded.

EAB Exhibit 1 and Department records suggest the possibility that, prior to the Department's issuance of the May 25, 2016 administrative decision in this matter claimant might have changed her address with the Department, and the Department might have misdirected notice of that decision to something other than her address of record with the Department. Those materials therefore raise a substantial question about whether claimant had notice of these proceedings as required by Oregon law and principles of due process, but the record is not sufficiently developed to support a conclusion either way. ORS 657.270 requires the ALJ to give the parties a reasonable opportunity for a fair hearing, and ensure that the record developed shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the ALJ in a case. *See accord Dennis v. Employment Division*, 302 Or 160, 728 P2d 12 (1986). On remand, the ALJ must develop a record sufficient to determine whether claimant had good cause for her late hearing request, including the dates and methods by which claimant notified the

Department of her address, any information the Department has concerning claimant's changes of address before and after May 25, 2016 and any other pertinent line of questioning. If claimant establishes good cause for the late hearing request, the ALJ must then develop a record on the issue of claimant's registration for work.

**DECISION:** Hearing Decision 16-UI-63706 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: August 4, 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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