

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0295-R

*Appeals Board Decision 2017-EAB-0295 Adhered to on Reconsideration
Request to Reopen Denied*

PROCEDURAL HISTORY: On November 9, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left her job at Civil Liberties Defense Center without good cause (decision # 134859). Claimant filed a timely request for hearing. On January 19, 2017, the Office of Administrative Hearings (OAH) mailed notice of a hearing on decision # 134859 scheduled for February 2, 2017 at 8:15 a.m., at which time claimant failed to appear. On February 2, 2017, ALJ Logan issued Hearing Decision 17-UI-76051, dismissing claimant's request for hearing on decision # 134859 for failure to appear. On February 21, 2017, claimant filed a timely request to reopen the hearing. On March 2, 2017, ALJ Kangas considered claimant's request and issued Hearing Decision 17-UI-78049, denying claimant's request to reopen. On March 6, 2017, claimant filed an application for review with the Employment Appeals Board (EAB). On March 13, 2017, EAB issued EAB Decision 2017-EAB-0295, affirming Hearing Decision 17-UI-78049. On March 23, 2017, claimant filed a timely request for reconsideration. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

Any party may request reconsideration to correct an error of material fact. OAR 471-041-0145(1) (October 29, 2006). With her request for reconsideration, claimant asked EAB to correct an error of material fact by considering new information that she missed the February 2, 2017 hearing due to a family emergency. Under OAR 471-041-0090(2) (October 29, 2006), however, EAB may consider new information only 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 the hearing record. Hearing Decision 17-UI-76051, which dismissed claimant's request for hearing due to her failure to appear, informed her that, pursuant to OAR 471-040-0040 (February 10, 2012), her request to reopen had to show, in writing, that factors or circumstances beyond her reasonable caused her to miss the hearing.¹ The form on which claimant filed her request to reopen the hearing also informed her that her request had to include a written statement explaining why she failed to appear.² However, claimant

¹ Hearing Decision 17-UI-76051 at 3.

² Claimant's Request to Reopen at 2.

did not offer any information regarding her failure to appear,³ and has not asserted that factors beyond her reasonable control prevented her from doing so. Claimant's request for EAB to consider new information that she missed the hearing due to a family emergency therefore is denied. EAB Decision 2017-EAB-0295 did not contain an error of material fact based on the hearing record. We therefore adhere to EAB Decision 2017-EAB-0295 on reconsideration.

DECISION: We adhere to EAB Decision 2017-EAB-0295 on reconsideration. Hearing Decision 17-UI-78049 is affirmed.

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

DATE of Service: March 29, 2017

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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³ *Id.* at 1.