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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0998-R

Request for Reconsideration Dismissed
Employment Appeals Board Decision 2017-EAB-0998 Remains Undisturbed

PROCEDURAL HISTORY: On June 27, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 155329). The employer filed a timely request for hearing. On July 31, 2017, ALJ Murdock conducted a hearing, and on August 2, 2017, issued Hearing Decision 17-UI-89466, concluding claimant voluntarily left work without good cause. On August 21, 2017, claimant filed an application for review with the Employment Appeals Board (EAB). On September 18, 2017, EAB issued Employment Appeals Board Decision 2017-EAB-0998, affirming Hearing Decision 17-UI-89466. On October 6, 2017, claimant filed a request for reconsideration and supporting written argument.

OAR 471-041-0145 (October 29, 2006) allows parties to request reconsideration of an EAB decision to, among other things, "correct an error of material fact or law." A party's request for reconsideration is subject to dismissal unless it "[i]ncludes a statement that a copy has been provided to the other parties." OAR 471-041-0145(2)(a). Claimant did not include any such statement in her request. Her request therefore is dismissed.

Even if EAB allowed claimant's request for reconsideration, or reconsidered its decision under ORS 657.290(3) to address claimant's submission of written argument, the outcome would remain the same. First, claimant did not assert or show that Employment Appeals Board Decision 2017-EAB-0998 contains an error of material fact or law based on the record before it. Second, claimant failed to certify that she provided a copy of her argument, which contained facts not offered into evidence at hearing, to the employer as required by OAR 471-041-0080(2)(a) (October 29, 2006). Nor did she explain why she was unable to present those facts during the hearing, or otherwise show, as required by OAR 471-041-0090 (October 29, 2006), that factors or circumstances beyond her reasonable control prevented her from doing so. EAB therefore would not have considered claimant's argument, and would have affirmed Employment Appeals Board Decision 2017-EAB-0998 on reconsideration.

DECISION: The request for reconsideration filed October 6, 2017 is dismissed. Employment Appeals Board Decision 2017-EAB-0998 remains undisturbed.

J. S. Cromwell and D. P. Hettle.

DATE of Service: October 9, 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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