

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1106**

*Affirmed*  
*Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On July 24, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that Home Care Workers (the employer) discharged claimant, not for misconduct, and that claimant therefore was not disqualified from receiving unemployment benefits based on that work separation (decision # 81221). On July 28, 2017, the Department issued notice of an administrative decision concluding claimant was not able to work during the week of June 18 through June 24, 2017, and therefore was not eligible to receive benefits until her inability to work ended (decision # 122229). Claimant filed timely requests for hearing on both decisions. On August 14, 2017, ALJ Kangas issued Hearing Decision 17-UI-90285, dismissing claimant's request for a hearing on decision # 81221 because it did not disqualify claimant from benefits and presented no justiciable controversy. On August 24, 2017, the Office of Administrative Hearings (OAH) served notice of a hearing on decision # 122229 scheduled for September 5, 2017. On September 5, 2017, ALJ A. Mann convened hearing on decision # 122229 at which claimant did not appear, and issued Hearing Decision 17-UI-91895, dismissing claimant's request for hearing due to her failure to appear. On September 2, 2017, claimant filed an application for review of Hearing Decision 17-UI-90285 with the Employment Appeals Board (EAB). On September 6, 2017, claimant filed a request to reopen the September 5, 2017 hearing on decision # 122229.

EAB construed the documents that claimant faxed to the Department and to OAH with the application for review as a written argument, which EAB considered when reaching this decision.

**CONCLUSIONS AND REASONS:** The ALJ did not err in dismissing claimant's request for hearing on decision # 81221.

In her submissions to the Department and OAH, claimant explained that she "received several very confusing letters which I barely understood, one seemed to say I was getting benefits and the other saying I was denied" and, since claimant received request for hearing forms accompanying both decision # 81221 and decision # 122229, she completed and sent in both requests to the Department. Claimant's confusion is understandable. However, it is not uncommon for the Department to first decide whether or not a claimant is disqualified from unemployment insurance benefits based on a work

separation, and also decide whether the claimant eligible for benefits based on factors other than the work separation. The law provides numerous different reasons why a claimant may be disqualified from receiving benefits or found ineligible to receive benefits, and the Department generally issues separate administrative decisions on the grounds for disqualification and those for ineligibility. Thus, claimant received one decision - decision # 81221 - that found claimant was not disqualified from benefits based on her work separation since she was not discharged for misconduct. Claimant received a second administrative decision - decision # 122229 - that found, despite the non-disqualifying nature of her work separation, claimant was ineligible to receive benefits after the work separation because she was not able to work and her ineligibility would continue until she was able to work.

The administrative decision for which claimant filed the request for hearing that was dismissed in Hearing Decision 17-UI-90285 is decision # 81221. Since decision # 81221 concluded that claimant was not disqualified from receiving benefits, it was not adverse to claimant and had no practical effects on claimant's rights or interests. Because decision # 81221 presents no justiciable controversy, the ALJ did not err in dismissing claimant's request for a hearing on its merits. While a separate decision, decision # 122229, did adversely affect claimant by concluding that she was ineligible to receive benefits, claimant filed a timely request for hearing on that decision. And although claimant's request for hearing on decision # 122229 was dismissed when claimant did not appear at the September 5, 2017 hearing, claimant's request to reopen that hearing remains pending at OAH. Claimant may contact OAH at 1-800-947-1515 if she has any questions about the status of her request to reopen.

**DECISION:** Hearing Decision 17-UI-90285 is affirmed.

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

**DATE of Service:** September 20, 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](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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