

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1445

Affirmed
Request to Withdraw Allowed

PROCEDURAL HISTORY AND FINDINGS OF FACT: On November 28, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 112439). On December 1, 2017, claimant filed a timely request for hearing. On December 5, 2017, claimant called the Office of Administrative Hearings (OAH) and orally withdrew her request for hearing. On December 6, 2017, ALJ Seideman issued Hearing Decision 17-UI-98303, dismissing claimant's request for hearing based upon her withdrawal of it. On December 13, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: The ALJ did not err in dismissing claimant's request for hearing.

ORS 657.270(7)(a)(A) provides that ALJs may dismiss a request for hearing if the request for hearing is withdrawn by the requesting party. The record in this case contains evidence that claimant, the requesting party in this matter, orally withdrew her request for hearing during a phone call to OAH. The ALJ therefore did not err in allowing claimant to withdraw her request for hearing.

We also note that the employer's application for review presents EAB with no justiciable controversy. The administrative decision denied claimant benefits based upon her work separation, and since claimant withdrew her request for hearing, that decision is now final and remains undisturbed. It appears that no portion of the hearing decision was adverse to the employer or had any practical effect on the employer's rights or interests, nor has the employer assigned error to any portion of the decision or requested reversal of any portion of the decision. In consideration of our obligation to issue decisions that are consistent with sound principles governing judicial review and address only existing controversies between parties, we decline to address matters that will have no practical effect on the rights of the parties to the controversy. *See Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995); *Brumnett v. PSRB*, 315 Or 402, 848 P2d 1194 (1992).

For the foregoing reasons, Hearing Decision 17-UI-98303 is affirmed, and EAB will take no further action with respect to the employer's application for review.

DECISION: Hearing Decision 17-UI-98303 is affirmed. Decision # 112439 remains undisturbed.

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

DATE of Service: December 21, 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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