

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1477

Reversed & Remanded

PROCEDURAL HISTORY: On September 8, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from August 13, 2017 to August 26, 2017 (decision # 152737). Claimant filed a timely request for hearing. On October 11, 2017, ALJ R. Frank conducted a hearing on decision # 152737, and on October 13, 2017 issued Hearing Decision 17-UI-94514, concluding that claimant was not available for work from August 13, 2017 to September 30, 2017. On October 30, 2017, claimant filed an application for review of that decision with the Employment Appeals Board (EAB). On November 21, 2017, EAB issued Appeals Board Decision 2017-EAB-1246, reversing Hearing Decision 17-UI-94514 and remanding the matter for additional evidence. On November 22, 2017, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for December 14, 2017. On December 14, 2017, ALJ R. Frank attempted to convene a hearing, at which claimant failed to appear, and on December 15, 2017, issued Hearing Decision 17-UI-99080, again concluding claimant was not available for work from August 13, 2017 to August 26, 2017.

CONCLUSIONS AND REASONS: Hearing Decision 17-UI-99080 is set aside and this matter remanded.

ORS 657.270(2) requires that parties be provided with notice of hearings on claims for unemployment insurance benefits. OAR 471-040-0015(1) requires that such notice of a hearing must be mailed in advance to parties "at their last known address as shown by the record of the Director."

At all relevant times, claimant's address of record has been on Jackson Street in Two Rivers. However, OAH mailed notice of the December 14th hearing to claimant's old address on Hamilton Street in Manitowoc. Because OAH did not provide claimant with notice of the December 14th hearing, due process requires that claimant be given another opportunity to attend a remand hearing. This matter is therefore reversed and remanded to provide claimant with notice of the hearing mailed to his address of record, as displayed in the address field on this decision, and an opportunity to be heard on the issues set forth in Appeals Board Decision 2017-EAB-1246.

DECISION: Hearing Decision 17-UI-99080 is set aside, and this matter remanded for further proceedings consistent with this order.¹

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

DATE of Service: December 28, 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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¹ **NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Hearing Decisions 17-UI-94514 or 17-UI-99080, or return this matter to EAB. Only a timely application for review of the subsequent hearing decision will cause this matter to return to EAB.