

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1484

Reversed & Remanded

PROCEDURAL HISTORY: On November 2, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 85331). Claimant filed a timely request for hearing. On December 15, 2017, ALJ Wyatt conducted a hearing at which the employer failed to appear, and on December 22, 2017 issued Hearing Decision 17-UI-99601, concluding claimant had good cause for quitting work. On December 27, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review the employer asked that the December 15th hearing be reopened on the grounds that the employer did not receive notice of the hearing. The employer's request for relief is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider information not presented at the hearing if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing.

In support of its request, the employer explained that it had been actively following and participating in this case and the only reason it did not attend the hearing to submit evidence about claimant's work separation was that it did not receive notice of the scheduled hearing. The employer also explained that it had unsuccessfully tried to update its address from house number 1912 to 1950 with "the hearings office," making it appear likely that the reason the employer did not receive notice of the December 15th hearing was that OAH mailed the notice of hearing to the wrong address.

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." Because it appears that OAH did not provide the employer with notice of the December 15th hearing at its updated address, due process requires that the employer be given another opportunity to be heard. This matter is therefore reversed and remanded to provide the employer with notice of the hearing mailed to its address of record, as displayed in the address field on this decision, and an opportunity to be heard.

DECISION: Hearing Decision 17-UI-99601 is set aside, and this matter remanded for further proceedings consistent with this order.

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

DATE of Service: December 29, 2017

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Hearing Decision 17-UI-99601 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.

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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