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

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| <p>EMPLOYMENT APPEALS BOARD DECISION 2018-EAB-0079</p> |
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Affirmed ~ Afirmando
No Disqualification ~ No Descalificación

PROCEDURAL HISTORY: On December 5, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 84600). Claimant filed a timely request for hearing. On December 26, 2017, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for January 9, 2018. On January 9, 2018, ALJ Clink conducted a hearing, at which the employer failed to appear, and issued Hearing Decision 17-UI-100525, concluding no work separation had occurred and claimant was not disqualified from receiving benefits because of this work separation. On January 20, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

In written argument, the employer asked for a new hearing on the grounds that it did not receive notice of the hearing scheduled for January 9, 2018 until January 10, 2018. 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. The employer argued that its failure to receive notice of the scheduled hearing made it impossible for the employer to attend the hearing or present evidence. However, the notice was mailed to the employer at its address of record with the Department. To show that a failure to receive notice constituted a circumstance beyond its reasonable control that would allow EAB to consider the employer's new information, the employer must show, in essence, that its failure to receive the notice was not caused by its own failure to either process its mail or take steps to resolve any known postal service interruptions or delays. The employer did not explain the circumstances under which correspondence mailed from Salem, Oregon on December 26, 2017 was not received until fifteen days later, and therefore failed to make the necessary showing. The employer's request is denied.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 18-UI-100525 is affirmed.
Decisión de la Audiencia 18-UI-100525 queda confirmada.

J. S. Cromwell and S. Alba;
D. P. Hettle, not participating.

DATE of Service: February 6, 2018

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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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

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