

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0315**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On February 8, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 85958). Claimant filed a timely request for hearing. On February 22, 2018, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for March 8, 2018. On March 8, 2018, ALJ Seideman conducted a hearing, at which the employer failed to appear, and on March 12, 2018 issued Order No. 18-UI-104985, concluding claimant voluntarily left work with good cause. On March 30, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer complained that it had no notice of the hearing and requested that EAB either reverse the ALJ's decision or reopen the hearing. The employer's complaint is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information 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 argued that OAH misdirected notice of the March 8<sup>th</sup> hearing to an incorrect address, and provided its physical and mailing addresses in Tualatin, Oregon and Wheeling, Illinois. OAH mailed notice of the March 8<sup>th</sup> hearing to the employer at an address on Reliance Avenue in Apex, North Carolina, the same address the Department sent notice of decision # 85958; however, Department records suggest that was not the employer's actual address at the relevant time, and that the employer's actual addresses were in Tualatin, Oregon and Wheeling, Illinois.<sup>1</sup> Given the circumstances described by the employer and demonstrated in Department records, it is more likely than not that the employer's lack of notice constitutes a circumstance beyond the employer's reasonable control that prevented it from presenting evidence at the hearing. The employer's request is, therefore, allowed, and a new hearing is required. Order No. 18-UI-104985 is therefore reversed, and this matter remanded pursuant to ORS 657.275(1) for a new hearing and hearing order.

<sup>1</sup> We take notice of this fact, which is contained in Employment Department records. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed fact will remain in the record.

**DECISION:** Order No. 18-UI-104985 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: April 26, 2018**

**NOTE:** The failure of any party to appear at the hearing on remand will not reinstate Order No. 18-UI-104985 or return this matter to EAB. Only a timely application for review of the subsequent hearing order will cause this matter to return to EAB.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.