

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0356-R**

*Request for Reconsideration Dismissed*

**PROCEDURAL HISTORY:** On March 9, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant quit work without good cause (decision # 140154). Claimant filed a timely request for hearing. On May 28, 2018, ALJ L. Lee conducted a hearing, and on April 5, 2018 issued Order No. 18-UI-106783, affirming the Department's decision. On April 9, 2018, claimant filed an application for review with the Employment Appeals Board (EAB). On May 10, 2018, EAB issued Appeals Board Decision 2018-EAB-0356, concluding that claimant voluntarily left work with good cause. On May 21, 2018, the employer filed a timely request for reconsideration. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

OAR 471-041-0145(2) provides that a request for reconsideration is subject to dismissal unless it includes a statement that a copy was provided to the other parties. The employer's request did not include any such statement. The request is therefore dismissed.

Even if the employer had stated that she provided a copy of the request for reconsideration to claimant as required, we would still affirm our decision on reconsideration. The employer's request for reconsideration was based upon the employer's failure to participate in the hearing or underlying proceedings in this matter. The employer argued "I recently sold my Home and bought another home and was in the middle of an address change which is why I'm assuming I didn't get any notification of a hearing on March 28<sup>th</sup>. The closing date on my home was April 20<sup>th</sup> and I had been going back and forth from property to property trying to make sure I was receiving all of the mail; however I did not get anything stating a hearing. I would have in fact attended that. The last piece of mail I received had stated that the case was closed and she was denied benefits . . ."

The employer's argument is construed as a request to submit additional evidence. OAR 471-041-0090 provides that EAB may consider a party's additional evidence if, among other things, the party offering the information shows that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing. In this case, it appears that the employer's failure to change its address likely caused the employer's failure to appear at the hearing. The employer did not explain which address(es) were valid or on which dates they became valid, nor did

the employer explain when or with whom she made any attempt to change her address despite knowing that claimant had an active unemployment insurance claim, and the employer would have seen on the last piece of mail she received about the case that claimant had the right to request a hearing on any denying decision. Moreover, the employer did not allege or show that the notice of hearing was mailed to the wrong address, and it is unclear from the employer's statement why moving around April 20<sup>th</sup> prevented the employer from receiving notice of a hearing that was mailed on March 28<sup>th</sup>. For those reasons, even if we had not dismissed the employer's request for reconsideration for failure to comply with the rules governing filing requests to reopen, the employer's request to submit additional evidence would have been denied, and the outcome of this case would have remained the same.

**DECISION:** The employer's request for reconsideration is dismissed. Appeals Board Decision 2018-EAB-0356 remains undisturbed.

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

**DATE of Service: June 1, 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](http://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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