

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0373

Reversed & Remanded

PROCEDURAL HISTORY: On March 2, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work with good cause (decision # 142729). The employer filed a timely request for hearing. On March 20, 2018, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for April 3, 2018. On April 3, 2018, ALJ Snyder conducted a hearing, at which claimant failed to appear, and issued Order No. 18-UI-106498, concluding claimant voluntarily left work without good cause. On April 13, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant explained why he missed the April 3rd hearing in this matter. Claimant'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 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 claimant's request, he explained that his "phone and phone service provider are second rate," that he has "been having problems with dropped calls, or it simply refuses to dial," and that on the date of the hearing he "missed five calls" and "got no clear answer from my service provider about the issues other than to say they were having issues in the area and to reboot."

Based upon claimant's description, it appears that his phone service problems might have amounted to circumstances beyond his reasonable control that prevented him from presenting information about his work separation at the hearing; however, additional evidence about claimant's phone service situation and whether he knew about the phone service problems prior to the hearing is required to make that determination. This matter is therefore set aside and remanded for the ALJ to conduct a hearing and gather evidence sufficient to determine if claimant should be entitled to reopen the April 3rd hearing. If the ALJ determines that the hearing should be reopened, for a hearing on the merits of whether or not claimant had good cause to voluntarily leave his job with the employer.

DECISION: Order No. 18-UI-106498 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-106498 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.

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