

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0455

Affirmed
Requests to Reopen Denied

PROCEDURAL HISTORY: On February 27, 2018, the Oregon Employment Department (the Department) served two notices of two administrative decisions, one concluding that claimant was not available for work from February 4, 2018 to February 10, 2018 because he was incarcerated (decision # 83701), and the other concluding claimant voluntarily left work with Prime Rib and Chocolate without good cause (decision # 83025). Claimant filed timely requests for hearing. On March 9, 2018, the Office of Administrative Hearings (OAH) mailed two notices of two hearings, one on decision # 83701 scheduled for March 23, 2018 at 1:30 p.m. and the other on decision # 83025 scheduled for March 23, 2018 at 2:30 p.m. Claimant failed to appear at both hearings. On March 23, 2018, ALJ Shoemake issued Order No. 18-UI-105893, dismissing claimant's request for hearing on decision # 83025 for failure to appear. On March 26, 2018, ALJ Shoemake issued Order No. 18-UI-105924, dismissing claimant's request for hearing on decision # 83701 for failure to appear. On April 9, 2018, claimant filed requests to reopen both hearings, but did not include with his requests a written statement explaining why he failed to appear at the hearings. On April 17, 2018, ALJ Kangas reviewed claimant's requests, and issued Order No. 18-UI-107537, dismissing claimant's request to reopen the hearing on decision # 83701, and Order No. 18-UI-107555, dismissing claimant's request to reopen the hearing on decision # 83025. On May 2, 2018 claimant filed applications for review of Order Nos. 18-UI-107537 and 18-UI-107555 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order Nos. 18-UI-107537 and 18-UI-107555. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0455 and 2018-EAB-0462).

Claimant wrote on his application for review that the reason he missed his hearings was that his roommates did not pass along his mail, so he did not know about the hearings. However, OAR 471-040-0040(3) requires parties requesting reopening to explain their reasons for missing the hearing in a written statement *included* with the request to reopen, which claimant did not do. The information he wrote on his application for review is therefore additional evidence, which cannot be considered for the first time by EAB because claimant did not show that factors or circumstances beyond his reasonable

control prevented him from including the information with his requests to reopen. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006).

EAB reviewed the entire hearing records. On *de novo* review and pursuant to ORS 657.275(2), the Orders under review are **adopted**.

DECISION: Order Nos. 18-UI-107537 and 18-UI-107555 are affirmed.

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

DATE of Service: May 7, 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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