

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0662**

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On January 17, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 132821). The employer filed a timely request for hearing. On February 27, 2018, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for March 13, 2018 at 10:45 a.m. On March 8, 2018, OAH allowed claimant's request to postpone the hearing, and OAH mailed notice of a hearing scheduled for April 3, 2018 at 10:45 a.m. On April 2, 2018, OAH denied claimant's request for another postponement. On April 3, 2018, ALJ Wyatt issued Order No. 18-UI-106516, dismissing the employer's request for hearing for employer's failure to appear at the hearing. On April 6, 2018, the employer filed a request to reopen the April 3<sup>rd</sup> hearing. On April 12, 2018, OAH mailed notice of a hearing scheduled for April 27, 2018 at 10:45 a.m., at which the employer again failed to appear. On April 30, 2018, ALJ Wyatt issued Order No. 18-UI-108352, dismissing employer's request to reopen for failure to appear at the hearing. On May 17, 2018, the employer filed a request to reopen the April 27<sup>th</sup> hearing. On May 22, 2018, OAH mailed notice of a hearing scheduled for June 8, 2018 at 10:45 a.m. On June 8, 2018, ALJ Wyatt conducted a hearing, at which time the employer appeared, and issued Order No. 18-UI-111472, denying the employer's reopen request. On July 2, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

The only issue before EAB on review is whether or not the employer had good cause to reopen the April 27<sup>th</sup> hearing. Only if the employer established good cause to reopen the April 27<sup>th</sup> hearing would the next issue come before EAB, which is whether or not the employer had good cause to reopen the April 3<sup>rd</sup> hearing. Only if the employer established good cause to reopen the April 3<sup>rd</sup> hearing would claimant's work separation be at issue.

The employer failed to certify that they provided a copy of their argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). Therefore, we did not consider the argument when reaching this decision.

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:** Order No. 18-UI-111472 is affirmed.

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

**DATE of Service:** July 13, 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.

**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.