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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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<p>EMPLOYMENT APPEALS BOARD DECISION 2018-EAB-0709</p>
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Reversed & Remanded

PROCEDURAL HISTORY: On May 25, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause on April 25, 2018 (decision # 94440). On May 29, 2018, claimant filed a timely request for hearing. On June 5, 2018, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for June 18, 2018. On June 18, 2018, ALJ Scott conducted a hearing at which the employer failed to appear, and on June 25, 2018 issued Order No. 18-UI-111987 concluding that no work separation had occurred and claimant was still employed by the employer. On July 16, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Prior to Fall 2017, the employer's business address was on Oak Street. The employer subsequently moved to a location on Country Club Road.

(2) The Department mailed notice of decision # 94440 to the employer's former Oak Street address. OAH mailed notice of the June 18th hearing to the same address.

(3) The current occupants of the Oak Street address received the notice of hearing and forwarded it to the employer. On June 19, 2018, the day after the hearing, the employer received the notice of hearing.

(4) On June 19, 2018, the employer called OAH about the missed hearing and updated its address with OAH. OAH mailed notice of Order No. 18-UI-111987 to the employer at the updated address on Country Club Road.

CONCLUSIONS AND REASONS: Order No. 18-UI-111987 should be set aside and this matter remanded to OAH.

With its application for review, the employer requested the opportunity to "defend my action of termination of" claimant. The employer'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 not presented at the hearing 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 the employer's request, the employer explained that it did not receive notice of the June 18th hearing due to a "mail mix up," and described some of the employer's efforts to update its address with the Department. The employer's statement suggests the possibility that the employer might be entitled to submit additional evidence about whether claimant was separated from work, and, if so, what the nature of the work separation was and whether the separation should be disqualifying. However, additional evidence about the employer's efforts to change its address with the Department between Fall 2017 and May-June 2018, including the date or dates upon which the employer attempted to update its address with the Department, is necessary before any determination can be reached on that issue. This matter is therefore remanded to OAH for additional evidence and a decision on the employer's request to, in essence, reopen the January 18th hearing. Only if the employer establishes "good cause" to reopen the hearing would the employer be entitled to present evidence about claimant's work separation.

DECISION: Order No. 18-UI-111987 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: August 1, 2018

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 18-UI-111987 or return this matter to EAB. Only a timely application for review of the subsequent Order will cause this matter to return to EAB.

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