

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0793

Reversed & Remanded
Revocada y Remitida para Otra Audiencia

PROCEDURAL HISTORY: On March 15, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$1,531 overpayment, \$459.30 monetary penalty and 22 penalty weeks (decision # 194354). On April 4, 2017, decision # 194354 became final without claimant having filed a timely request for hearing. On July 17, 2018, claimant filed a late request for hearing. On August 1, 2018, ALJ Kangas issued Order No. 18-UI-114157, dismissing claimant's late request for hearing subject to his right to renew the request by responding to an appellate questionnaire by August 15, 2018. On August 14, 2018, claimant filed an application for review of Order No. 18-UI-114157 with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Order No. 18-UI-114157 is set aside and this matter is remanded for additional proceedings.

On his application for review form, claimant included a note that stated, "Please send letters in Spanish." The record in this case shows that when claimant requested a hearing in this matter he notified the Department that he required a Spanish-language interpreter. However, while the Office of Administrative Hearings (OAH) customarily sends Spanish-language appellant questionnaires to parties in late request for hearing cases, the record shows that OAH mailed this claimant an English-language questionnaire instead.

ORS 45.273, *et seq.*, and OAR 471-040-0007 protect the rights of non-English speaking parties in administrative proceedings and require the appointment of qualified interpreters whenever necessary. By logical extension of the policies set forth in those provisions, claimant had the right to either receive a Spanish-language appellant questionnaire in this case, be appointed a qualified interpreter to translate the English-language document for him, or be scheduled for a hearing about his late request for hearing and provided with the services of a qualified interpreter for the duration of the hearing proceedings.

Due process of law requires that claimant be given the opportunity for interpreted proceedings on his late request for hearing, whether in the form of a Spanish-language questionnaire or an interpreted hearing. Order No. 18-UI-114157 is therefore reversed, and this matter remanded to OAH.

DECISION: Order No. 18-UI-114157 is set aside, and this matter remanded for further proceedings consistent with this order. *La Orden de la Audiencia 18-UI-114157 se pone a un lado, y esta materia se remite para otros procedimientos constantes con esta orden.*

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

DATE of Service: August 31, 2018

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