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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-0913</p>
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Reversed & Remanded

PROCEDURAL HISTORY: On August 3, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer with good cause (decision # 85417). The employer filed a timely request for hearing. On August 16, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for August 30, 2018. On August 30, 2018, ALJ Snyder conducted a hearing at which claimant failed to appear, and on September 5, 2018 issued Order No. 18-UI-115840, concluding that claimant quit working for the employer without good cause. On September 19, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Order No. 18-UI-115840 is reversed and this matter remanded to OAH.

In her application for review, claimant stated that she wanted to “present my side of the case,” asserting that she missed the August 30th hearing because she was working her new job in a satellite medical clinic where she worked with only two other people, and was in the middle of patient care at the time of the hearing and unable to participate. Claimant’s request to present her side of the case is construed as a request for consideration of new information regarding her work separation from the employer. Such information may be considered when the party offering the information establishes that factors or circumstances beyond the party’s reasonable control prevented the party from offering the information into evidence at the hearing. OAR 471-041-0090(2) (October 29, 2006).

Here, claimant’s explanation for missing the August 30th hearing and offer her information into evidence at that time suggests that it might have been due to exigent circumstances at work that were beyond her reasonable control. However, further inquiry is required into the facts necessary for a determination of that issue. Order No. 18-UI-115840 therefore is reversed and this matter remanded to OAH for a hearing on whether claimant had good cause for failing to appear at the hearing and, if so, another hearing on whether claimant should be disqualified from receiving benefits based on her work separation for the employer.

DECISION: Order No. 18-UI-115840 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: October 2, 2018

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 18-UI-115840 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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