

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1007

Reversed & Remanded

PROCEDURAL HISTORY: On August 20, 2018, the Oregon Employment Department (the Department) served, by mail, notice of an administrative decision concluding that claimant quit working for the employer with good cause and therefore was not disqualified from receiving benefits based on that work separation (decision # 94306). On September 10, 2018, the employer filed a timely request for hearing. On September 17, 2018, the Office of Administrative Hearings (OAH) served, by mail, notice of a hearing scheduled for October 1, 2018. On October 1, 2018, ALJ Shoemake conducted a hearing at which claimant failed to appear, and on October 5, 2018 issued Order No. 18-UI-117769, concluding that claimant did not have good cause to quit working for the employer. On October 18, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

CONCLUSIONS AND REASONS: Order No. 18-UI-117769 is reversed and this matter remanded to OAH for another hearing on whether claimant is disqualified from receiving benefits based on a work separation from the employer.

In her application for review, claimant requested that the October 1, 2018 hearing be reopened, explaining that she failed to appear at the hearing because she did not receive the notice of hearing, which was mailed to her address of record with the Department, and not her current address. Claimant's request is construed as a request for consideration of new information regarding her work separation from the employer. Claimant's information may be considered if she establishes that circumstances beyond her reasonable control prevented her from appearing at the hearing and offering the information into evidence at that time. *See* OAR 471-040-0090 (October 29, 2006).

Department records show that claimant stopped claiming benefits on August 6, 2018, moved from her address of record with the Department to her current address on September 1, 2018 without notifying the Department, and did not start claiming benefits again until October 8, 2018.¹ Claimant therefore moved

¹ We take notice of these facts, which are contained in Employment Department records. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed facts will remain in the record.

almost 4 weeks after she stopped claiming benefits for what was likely to be an indefinite period of time approximately 2 weeks after having received a decision concluding that she was not disqualified from receiving benefits based her work separation from the employer. She moved nine days before the employer requested a hearing on that decision, and over two weeks before OAH mailed notice of the hearing on that decision. Thus, no appeal of decision # 94306 was pending when claimant moved, and claimant had no reason to expect further mailings from the Department. Claimant's failure to notify the Department that she had moved therefore was due to circumstances beyond her reasonable control which prevented her from receiving notice of the hearing, and appearing at the hearing and offering her information into evidence at that time.

Claimant's request for consideration of new information regarding her work separation from the employer therefore is granted. Order No. 18-UI-117769 therefore is reversed and this matter remanded to OAH for another hearing on whether claimant is disqualified from receiving benefits based on a work separation from the employer.

DECISION: Order No. 18-UI-117769 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: November 2, 2018

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Order No. 18-UI-117769 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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