

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1090

Affirmed
Requests to Reopen Denied
Disqualified and Ineligible

PROCEDURAL HISTORY: On October 1, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct connected with work (decision # 104413) and an administrative decision concluding that claimant did not actively seek work from July 22, 2018 through August 25, 2018 (decision # 110340). Claimant filed timely requests for hearing on both decisions. On October 17, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for October 31, 2018 at 2:30 p.m. on decision # 104413, and notice of a hearing scheduled for October 31, 2018 at 1:30 p.m. on decision # 110340. On August 31, 2018, claimant failed to appear at both hearings, and ALJ Frank issued Order No. 18-UI-119013 and Order No. 18-UI-119027, dismissing claimant's requests for hearings due to his failure to appear. Claimant filed timely requests to reopen both hearings. On November 9, 2018, ALJ Kangas considered claimant's requests, and issued Order No. 18-UI-119488 and 18-UI-119489 denying claimant's requests to reopen the hearings on decision # 104413 and decision # 110340. On November 19, 2018, claimant filed applications for review of Order No. 18-UI-119488 and 18-UI-119489 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order No. 18-UI-119488 and Order No. 18-UI-119489. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-1090 and 2018-EAB-1091).

Claimant submitted written argument to EAB. Claimant's argument contained information that was not part of the record, and failed to show that factors or circumstances beyond his reasonable control prevented him from offering the information with his request to reopen. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence when reaching this decision, and considered claimant's argument to the extent it was based on the record. Even if we had considered the new information, claimant's mistaken belief that the ALJ would call him

for the hearings is not good cause for his failure to appear at the hearing, because the notices of hearing stated “At the time of the hearing you must call” to participate in the hearing.

On *de novo* review and pursuant to ORS 657.275(2), the Orders under review are **adopted**.

DECISION: Order No. 18-UI-119488 and 18-UI-119489 are affirmed.

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

DATE of Service: November 27, 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. 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.

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