



APPEAL TRIBUNAL DECISION

Docket number: 24 0829

CLAIMANT:

SALOME IOSEFA
[REDACTED]

EMPLOYER:

ESA MANAGEMENT LLC
[REDACTED]

REOPENING ORDER

The claimant appealed a division determination issued on November 12, 2024, that denied benefits for the weeks ending October 26, 2024, through November 30, 2024, finding the claimant had voluntarily left work without good cause.

On November 21, 2024, the appeals office mailed the hearing notice to the claimant's current mailing address. The notice stated a hearing was scheduled for 10:00 a.m. on December 10, 2024. The Appeals Officer called the claimant's phone number of record at the time of the hearing, but the call went to voice mail. The Appeals Officer left a voicemail message giving the claimant fifteen minutes to call and participate in the hearing. The claimant did not call within the provided time frame and the hearing was dismissed.

Three hours later, the claimant called the appeals office about the missed hearing from the same phone number that the appeals officer called earlier. In her written request to reopen her appeal, the claimant stated her phone service was suspended due to non-payment at the time of the hearing, and she only reestablished service on December 19, 2024.

The notice of telephonic hearing that was mailed to the claimant on November 21, 2024, lists the phone numbers, email address, and mailing address for the appeals office. On the reverse side of the form are instructions on requesting a postponement of a scheduled hearing.

The claimant offered no explanation for why she waited until the day of her hearing to reestablish her phone service. She provided nothing to explain why she could not have borrowed a phone to either participate in the hearing or to call and request a postponement of her hearing. She did not send an email request or mail a letter to the appeals office asking to postpone her hearing.

PROVISIONS OF LAW

AS 23.20.420. HEARING PROCEDURE AND RECORD.

- (a) Each party shall be promptly given a reasonable opportunity for fair hearing. An appeal tribunal shall inquire into and develop all facts bearing on the issues and shall receive and consider evidence without regard to statutory and common law rules. The appeal tribunal shall include in the record and consider as evidence all records of the department that are material to the issues.

8 AAC 85.153. HEARING PROCEDURES.

- (f) A hearing may be postponed, continued or reopened on the appeal referee's own motion or at the request of an interested party. All requests must explain in detail the reasons for the request. If a party fails to appear in person or by authorized agent at a hearing, the appeal referee may reopen the hearing only if the party failed to appear because of circumstances beyond the party's control. All other requests may be granted only if there is good cause. The following rules apply to requests:
 - 3. A request for reopening must be made in writing to the appeal referee and must be delivered or mailed within 10 days after the scheduled date of the hearing. The 10-day period may be extended for a reasonable period on a showing that the request was delayed as a result of circumstances beyond the party's control.
 - 4. If a request for reopening is not allowed, the appeal referee will mail a written ruling and a statement of the right of appeal from that ruling to each party.

CONCLUSION

Under 8 AAC 85.153(f), a hearing may be reopened at a party's request only if she failed to appear because of a circumstance beyond her control.

While the claimant's phone being disconnected for non-payment may have been a circumstance beyond the claimant's control. It was within the claimant's control either to attend the hearing by other means or to request a postponement of the hearing until she could get her phone service reestablished. Therefore, the claimant has not established circumstances beyond her control that kept her from participating in her scheduled hearing.

DECISION

The claimant's request to reopen the hearing is **DENIED**.

APPEAL RIGHTS

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of rights and procedures is enclosed.

Dated and mailed on January 16, 2025.

A black rectangular box redacting the signature of Justin Karaffa.

Justin Karaffa, Appeals Officer