

**BOARD OF REVIEW**  
**OKLAHOMA EMPLOYMENT SECURITY COMMISSION**  
P.O. BOX 53345  
OKLAHOMA CITY, OK 73152

Docket No. 16-AT-06203-BR

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: APRIL 26, 2016

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Chief Hearing Officer, finding the employer failed to show good cause for non-appearance at the hearing scheduled on APRIL 11, 2016, in accordance with Rule 240:10-13-40 of the Rules for Administration of the Oklahoma Employment Security Act, and reinstating the decision of the Appeal Tribunal issued on APRIL 12, 2016, which reversed and modified the Commission's decision and found that the claimant was discharged from his last employment but not for misconduct connected with the work and allowed benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended.

This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The employer sent a fax on April 18 stating that he missed the hearing because he was "unavailable due to my work schedule for the phone hearing. I was out of town in the field on a job site." This explanation was perhaps overlooked by the Appeal Tribunal, which then sent him a letter asking him to explain why he missed the hearing. The employer responded on April 26, saying that he "was in a position where I was unavailable. I was out of town in the field where my cell phone did not receive a signal." The response seems to have been missed by the Appeal Tribunal because it rendered a decision on April 27 saying that no response had been received, and therefore good cause had not been shown to reopen the hearing.

The Board of Review finds the employer did provide an explanation for the reason he missed the hearing. However, the reason did not amount to a situation beyond the employer's control, since he was aware of the date and time the hearing was to take place. He could have either rearranged his work schedule, or asked the Appeal Tribunal for a continuance of the hearing due to his work. Since he has not shown that it was beyond his control to have participated in the hearing, the Board agrees that good cause to reopen the case has not been shown.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby AFFIRMED.