

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

Docket No. 16-AT-09770-BR

In Re: Claim of:

APPELLANT

EMPLOYER

Date of Appeal to Board: **JULY 25, 2016**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, finding the claimant failed to show good cause for non-appearance at the hearing scheduled on JUNE 28, 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 JUNE 9, 2016, which found the claimant was discharged from his last employment for misconduct connected with the work and denying 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.

On June 24, 2016, the claimant requested that his hearing of June 27 be rescheduled due to a job interview. Since his hearing was actually scheduled for June 28, not June 27, his request was denied. The claimant did not explain that the interview was a three-day process. If he was selected for the second interview, it would take place on June 28. When he called the Appeal Tribunal on June 28 to provide further explanation, he had already missed his hearing.

A show cause hearing was held on July 25 so that the claimant could testify about the reason he missed the June 28 hearing. He testified that he did not explain about the three-day interview process because he felt it was "unnecessary" and that he did not think the Appeal Tribunal needed to know that information. The Hearing Officer ruled that the claimant did not take reasonable steps to appear for the hearing because he chose to withhold information that was fundamental to the decision of whether or not to grant his request for continuance.

Based on the information the claimant provided to the Appeal Tribunal in his continuance request, the decision to deny that request was reasonable and proper. If the claimant had more fully explained his reason for making the request, no doubt the request would have been granted. However, the fact remains that the claimant missed the June 28 hearing because he was in a job interview. That has traditionally been considered to be good cause for non-appearance at a hearing.

The Board of Review concludes that the Appeal Tribunal decision should be reversed. This case should be remanded to the Appeal Tribunal for a full hearing after which a new decision shall be issued addressing first the show cause issue for the hearing scheduled for June 9, 2016; and then, if necessary, the merits of the case using all records, testimony and evidence contained in the file.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that this case is REMANDED to the Appeal Tribunal as instructed above.