

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0121

Affirmed
No Disqualification

PROCEDURAL HISTORY: On October 22, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 114217). Claimant filed a timely request for hearing. On November 22, 2013, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for December 11, 2013 at 8:15 a.m. On December 11, 2013, ALJ Wyatt conducted a hearing at which the employer failed to appear, and on January 3, 2014 issued Hearing Decision 14-UI-07676, concluding claimant voluntarily left work with good cause. On January 22, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its written argument, the employer's representative asks for a new hearing, contends that the ALJ erred in concluding that claimant voluntarily left work because of concerns for her physical safety, and questions the claimant's credibility. The employer's argument constitutes a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006), however. Accordingly, the argument will not be considered in reaching this decision and the employer has demonstrated no circumstances beyond its reasonable control that prevented it from offering the new information at hearing. Therefore, we did not consider the argument when reaching this decision. The employer's request to consider new information under OAR 471-041-0090 is, therefore, denied.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 14-UI-07676 is affirmed.

Susan Rossiter and D. E. Larson;
Tony Corcoran, not participating.

DATE of Service: February 5, 2014

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 website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.