

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0135

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On August 7, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, not for misconduct. (decision # 143411). The employer filed a timely request for hearing. On October 24, 2013, ALJ Monroe conducted a hearing at which claimant failed to appear, and on November 4, 2013 issued Hearing Decision 13-UI-003927, reversing the Department's decision. On November 14, 2013, claimant filed a request to reopen the hearing. On December 24, 2013, ALJ Bear conducted a hearing, and on January 3, 2014 issued Hearing Decision 14-UI-07693, allowing claimant's request to reopen, and concluding the employer discharged claimant for misconduct. On January 22, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

No party appealed that portion of Hearing Decision 14-UI-07693 allowing claimant's request to reopen the hearing. We therefore limited its review to whether claimant's discharge was for misconduct. We considered the entire hearing record and claimant's written argument. On *de novo* review and pursuant to ORS 657.275(2), we **adopt** Hearing Decision 14-UI-07693 and add the following:

In written argument, claimant asserted that her conduct was an isolated instance of poor judgment and/or a good faith error, and not misconduct. However, we agree with the ALJ that claimant willfully violated the employer's reasonable expectations on numerous occasions. Claimant's exercise of poor judgment therefore was a repeated act, and not a single or infrequent occurrence. Nor was her conduct the result of an error in her understanding of the employer's expectations. Claimant's conduct therefore was not an isolated instance of poor judgment or a good faith error. The employer discharged claimant for misconduct.

**DECISION:** Hearing Decision 14-UI-07693 is affirmed.

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

**DATE of Service: February 20, 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.