

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0159

Affirmed
No Disqualification

PROCEDURAL HISTORY: On November 7, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 142755). Claimant filed a timely request for hearing. On December 19, 2013, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for January 2, 2014. On January 2, 2014, ALJ Seideman conducted a hearing at which the employer failed to appear, and on January 7, 2014 issued Hearing Decision 14-UI-08001, reversing the Department's decision. On January 27, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In written argument, the employer asked EAB to reopen the hearing and consider new information. The employer's request for relief is construed as a request to have EAB consider additional evidence 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 circumstance beyond its reasonable control from presenting the information at the hearing. In support of its request, the employer asserted that it failed to appear at the hearing because it "lost" its mail containing the notice of hearing. The employer's handling of its mail was a circumstance within its reasonable control. The employer therefore failed to show that it was prevented by circumstances beyond its reasonable control from attending the hearing and presenting the information at that time. The employer's request for EAB to consider additional evidence under OAR 471-041-0090 therefore is 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-08001 is affirmed.

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

DATE of Service: February 25, 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.