

**EMPLOYMENT APPEALS BOARD DECISION**

**2014-EAB-0187**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On October 31, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was discharged for misconduct (decision #92004). Claimant filed a timely request for hearing. On January 7, 2014, ALJ Frank conducted a hearing at which the employer did not appear, and on January 23, 2014, issued Hearing Decision 14-UI-08953, concluding that claimant was discharged but not for misconduct. On January 31, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its written argument, the employer asks for a new hearing on the grounds that the individual who had firsthand knowledge of “the incidents surrounding [claimant’s] employment” could not attend the hearing “due to a workplace customer emergency during the time of the hearing.” 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. The workplace emergency in which the employer’s best witness was involved might have been cause to miss the hearing had the employer explained why the emergency made it impossible for an employer representative to request a postponement of the hearing. Absent such an explanation, the employer’s request to have EAB consider new information 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-08953 is affirmed.

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

**DATE of Service: February 14, 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.