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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0301

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On September 12, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision #121840). Claimant filed a timely request for hearing. On November 5, 2013, ALJ Lohr conducted a hearing, and on November 25, 2013 issued Hearing Decision 13-UI-05249, affirming the Department's decision. On December 3, 2013, claimant filed an application for review with the Employment Appeals Board (EAB). On January 3, 2014, EAB issued Appeals Board Decision 2014-EAB-2397, reversing Hearing Decision 13-UI-05249, and remanding the matter back to the Office of Administrative Hearings (OAH) for further proceedings.

On January 6, 2014, OAH issued notice of a hearing scheduled for January 13, 2014 at 10:45 a.m. On January 13, 2014, ALJ Lohr issued Hearing Decision 14-UI-08461, dismissing the request for hearing for failure to appear. On January 24, 2013, claimant filed a timely request to reopen the hearing. On January 30, 2014, ALJ Kangas reviewed claimant's request to reopen and issued Hearing Decision 14-UI-09452, denying claimant's request. On February 18, 2014, claimant filed an application for review with the EAB.

In claimant's written argument, claimant included information that was not part of the record before the ALJ. Claimant failed to certify that a copy of the written argument was provided to the other parties as required. Under ORS 657.275 (2), OAR 471-041-0080 (October 29, 2006), and OAR 471-041-0090 (October 29, 2006), we did not consider claimant's written argument when reaching this decision.

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-09452 is affirmed.

Susan Rossiter and Tony Corcoran;
D. E. Larson, 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.