

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

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0637

Affirmed
No Disqualification

PROCEDURAL HISTORY: On January 16, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 150829). Claimant filed a timely request for hearing. On April 1, 2014, ALJ Messecar conducted a hearing, and on April 16, 2014, issued Hearing Decision 14-UI-15345, concluding the employer discharged claimant but not for misconduct. On April 18, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In the employer's written argument, the employer included information that was not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider information not included in the hearing record if the party offering the information shows that circumstances beyond the party's reasonable control prevented the party from presenting the information at hearing. The employer provided no explanation as to why the information in his written argument was not presented at hearing. In addition, the employer failed to certify that a copy of the written argument was provided to the other parties as required by OAR 471-041-0080(2)(a). Accordingly, we did not consider the employer's written argument in 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-15345 is affirmed.

Susan Rossiter and Tony Corcoran;
D. E. Larson and J. S. Cromwell, *pro tempore*, not participating.

DATE of Service: May 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.