

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0655

Affirmed
No Disqualification

PROCEDURAL HISTORY: On January 21, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 110903). Claimant filed a timely request for hearing. On March 21, 2014, and ALJ Monroe convened a hearing at which the employer and claimant appeared. The ALJ granted a request for postponement of the hearing. On April 7, 2014, ALJ Monroe conducted another hearing in which the employer did not participate, and on April 11, 2014, issued Hearing Decision 14-UI-14906, concluding that the employer discharged claimant but not for misconduct. On April 19, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its written argument, the employer states that it missed the April 7 hearing because “[o]n the morning of the hearing, the keys to the office were locked inside of the running company vehicle so the manager was unable to get to the office or the file in time to make the hearing phone call.” The employer’s request is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider information not received into the hearing record if the party offering the information demonstrates that circumstances beyond the party’s reasonable control prevented the party from offering the information at the hearing. The employer failed to make such a showing. The employer provided no details regarding the key problem, i.e., when the discovery was made that the office keys were locked in the running office vehicle, whether spare office vehicle keys were unavailable, and whether any attempt was made to contact the Office of Administrative Hearings (OAH) to notify the ALJ of the problem. With no supporting details, we cannot conclude that the employer’s inability to access its office keys was a circumstance beyond the employer’s reasonable control that prevented the employer from presenting evidence at the hearing. Accordingly, the employer’s request to present 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-14906 is affirmed.

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

DATE of Service: May 2, 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.