

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0691

Affirmed
Disqualification

PROCEDURAL HISTORY: On February 6, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant but not for misconduct (decision # 82327). The employer filed a timely request for hearing. On April 8, 2014, ALJ M. Davis conducted a hearing in which the claimant did not participate, and on April 10, 2014, issued Hearing Decision 14-UI-14794, concluding that the employer discharged claimant for misconduct. On April 24, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

After she filed her application for review, claimant submitted a letter in which she explained that she had not “willingly failed to appear” for the hearing because “I was out of town and then had my wisdom teeth pulled out. It was a very horrible experience and I didn’t have anyone to take care of me.” Claimant also asserts that she missed the hearing because “I checked my mail 2 hours too late.” Claimant asks for “a chance to explain myself.” Claimant’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 part of the hearing record if the party offering the information shows that circumstances beyond its reasonable control prevented it from presenting the information at hearing. Here, claimant provides no dates or details about the removal of her wisdom teeth and her trip. Without further information, we cannot conclude claimant’s dental surgery or trip were circumstances beyond her control that prevented her from participating in the hearing. Nor does claimant explain how and why checking her mail “2 hours too late” caused her to miss the hearing. Accordingly, claimant has failed to show that circumstances beyond her reasonable control prevented her from participating in the hearing and presenting evidence about her work separation. Claimant’s request to present new information is, therefore, 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-14794 is affirmed.

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

DATE of Service: May 5, 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.