

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0730

*Affirmed*  
*Request to Reopen Denied*

**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 # 63546). Claimant filed a timely request for hearing. On February 26, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for March 13, 2014 at 8:15 a.m. On March 13, 2014, ALJ Menegat issued Hearing Decision 14-UI-12379, dismissing claimant's request for hearing for failure to appear. On March 20, 2014, claimant filed a timely request to reopen the hearing. ALJ Kangas reviewed claimant's request to reopen and on April 15, 2014, issued hearing Decision 14-UI-15178, denying claimant's request.

In claimant's written argument, claimant included information that was not part of the record before the ALJ. 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. Claimant asserts that he did not appear at the March 13, 2014 hearing because he mistakenly believed the hearing was scheduled for 3:15 p.m., rather than 8:15 a.m. It was well within claimant's reasonable control to carefully read the hearing notice. Because claimant has not demonstrated that any circumstances beyond his reasonable control prevented him from participating in the hearing and offering the information he now asks us to consider, his request to present new information is denied. In addition, claimant did not certify that he provided a copy of his written argument to the other parties. Under OAR 471-041-0080(2)(a) (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-12379 is affirmed.

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

**DATE of Service: May 9, 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.