

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0953

Affirmed
Disqualification

PROCEDURAL HISTORY: On March 31, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant but not for misconduct (decision # 95327). The employer filed a timely request for hearing. On April 29, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for May 13, 2014. On May 13, 2014, ALJ Kirkwood conducted a hearing in which the claimant did not participate, and issued Hearing Decision 14-UI-17517, concluding that the employer discharged claimant for misconduct. On June 2, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant asks for a new hearing, explaining that she did not participate in the May 13 hearing because “ I honestly didn’t realize I had to.” Claimant further asserts that had she known that the hearing might affect her unemployment benefits, she would have attended the hearing. 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 presented at the hearing if the party offering the information shows that circumstances beyond its reasonable control prevented it from presenting the information at the hearing. The hearing notice OAH issued on April 29, 2014, notified the parties of the May 13 hearing, and informed them that the issue to be considered was “Shall claimant be disqualified from receipt of benefits because of a separation, discharge, suspension or voluntary leaving from work?” It was well within claimant’s reasonable control to carefully read the hearing notice and understand that the hearing concerned her qualifications for unemployment benefits. Accordingly, claimant’s request to have EAB consider 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-17517 is affirmed.

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

DATE of Service: June 11, 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.