

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0963

Affirmed
No Disqualification

PROCEDURAL HISTORY: On April 23, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 161631). Claimant filed a timely request for hearing. On May 16, 2014, ALJ Seideman conducted a hearing in which the employer did not participate, and issued Hearing Decision 14-UI-17870, concluding that the employer discharged claimant but not for misconduct. On June 4, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its written argument, the employer's representative asks for a new hearing, explaining that she missed the hearing because "[w]hen I looked at the hearing notice, I did not see the issues in regards to the employer." 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 new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. The hearing notice mailed to the parties state that the issue to be considered at the hearing is: "Shall claimant be disqualified from the receipt of benefits because of a separation, discharge, suspension or voluntary leaving from work?" It was well within the employer representative's reasonable control to carefully read the hearing notice, and understand that the nature of claimant's work separation was at issue - a matter involving the employer. Accordingly, the employer failed to show that circumstances beyond its reasonable control prevented its representative from appearing at the hearing and the 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-17870 is affirmed.

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

DATE of Service: June 12, 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 court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.