

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0994

Affirmed
No Disqualification

PROCEDURAL HISTORY: On March 4, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 162618). Claimant filed a timely request for hearing. On March 17, 2014, the Office of Administrative Hearings issued notice of a hearing scheduled for April 1, 2014 at 3:30 p.m. On April 2, 2014, ALJ Buckley issued Hearing Decision 14-UI-14003, dismissing claimant hearing request for failure to appear. On April 16, 2014, claimant filed a timely request to reopen the hearing. On May 29, 2014, ALJ R. Davis conducted a hearing in which the employer did not participate, and issued Hearing Decision 14-UI-18429, concluding that the employer discharged claimant but not for misconduct. On June 6, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, a representative of the employer asks for a new hearing, explaining that she missed the May 29 hearing because of a family emergency – her daughter’s brain surgery. 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 employer is a corporation; its representative failed to show why another representative could have been designated to appear at the hearing and, if necessary, request a continuance. Absent such a showing, the employer failed to establish that circumstances beyond its reasonable control prevented it from presenting information at the hearing. The employer’s request for EAB to consider the information under OAR 471-041-0090 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-18653 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 screen, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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