

**EMPLOYMENT APPEALS BOARD DECISION**

**2014-EAB-1138**

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On April 23, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 140036). Claimant filed a timely request for hearing. On May 5, 2014, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for May 19, 2014 at 9:30 a.m. On May 19, 2014, ALJ M. Davis issued Hearing Decision 14-UI-17885, dismissing claimant's request for hearing for failure to appear. Claimant filed a timely request to reopen the hearing. On June 25, 2014, ALJ M. Davis conducted a hearing at which claimant appeared and testified, and on June 26, 2014, issued Hearing Decision 14-UI-20466, denying claimant's request.

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record. Claimant disagreed with the ALJ that he did not reside in his home on the date of the original hearing. Claimant stated: "I was unable to call in for my May 19<sup>th</sup> court date due to my wife not letting me into the house the night before...my only concern was finding a place to sleep for the night." Claimant made no attempt to contact OAH to make arrangements to participate in the hearing or to request a postponement. Claimant failed to show that it was outside his reasonable control to appear at the hearing or contact OAH, thus he did not show he had good cause for failing to appear at the original hearing.

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-20466 is affirmed.

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

**DATE of Service:** July 16, 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](http://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.

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