

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-1167

Affirmed
No Disqualification

PROCEDURAL HISTORY: On May 28, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 71444). Claimant filed a timely request for hearing. On June 17, 2014, ALJ Triana conducted a hearing, and on July 2, 2014 issued Hearing Decision 14-UI-20781, concluding claimant voluntarily left work with good cause. On July 7, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer asked EAB to consider new information. OAR 471-041-0090 (October 29, 2006), allows EAB to consider new information if the party offering the information shows it was prevented by circumstance beyond its reasonable control from presenting the information at the hearing. In support of its request, the employer asserted that it did not anticipate the content of claimant's testimony, and therefore was not prepared to respond. However, that the employer might have reason to dispute the evidence claimant presented at hearing was not a circumstance beyond the reasonable control of the employer. The employer therefore failed to show that it was prevented by circumstances beyond its reasonable control from presenting the information at hearing, the employer's request for EAB to consider additional evidence under OAR 471-041-0090 is denied, and EAB considered the employer's argument only to the extent it was based on the record.

In written argument, claimant also asked EAB to consider new information. However, claimant did not show that factors or circumstances beyond her reasonable control prevented her from offering the new information during the hearing. Under OAR 471-041-0090, EAB considered claimant's written argument only to the extent it was based on information received into evidence at the 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-20781 is affirmed.

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

DATE of Service: August 7, 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.

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