

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1180

Affirmed
No Disqualification

PROCEDURAL HISTORY: On June 10, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 83333). Claimant filed a timely request for hearing. On June 13, 2013, the Office of Administrative Hearings issued notice of a hearing scheduled for June 26, 2014 at 8:15 a.m. On June 26, 2014, ALJ Frank conducted a hearing in which the employer did not participate, and on July 3, 2014, issued Hearing Decision 14-UI-20909, concluding that the employer discharged claimant not for misconduct. On July 9, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In the application for review, the employer's representative asked for new hearing to present information regarding claimant's work separation, and explained that she failed to appear at the hearing because she "misunderstood that I was the one that was supposed to call." We construe this request as a request to have EAB consider additional evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows that it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. The hearing notice which the employer's representative received explains that to participate in the hearing, each party must call a particular number and enter a specific access code on the date and at the time the hearing is scheduled to begin. It was within the reasonable control of the employer's representative to carefully read the hearing notice and understand the instructions provided. Accordingly, the employer's request to have EAB consider additional evidence 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-20909 is affirmed.

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

DATE of Service: July 31, 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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