

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1285

Affirmed
No Disqualification

PROCEDURAL HISTORY: On June 2, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 130153). Claimant filed a timely request for hearing. On June 24, 2014, the Office of Administrative Hearings issued notice of a hearing scheduled for July 8, 2014, at 4:30 p.m. On July 8, 2014, ALJ Monroe conducted a hearing in which the employer did not participate, and on July 10, 2014, issued Hearing Decision 14-UI-21215, concluding that the employer discharged claimant not for misconduct. On July 29, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its application for review, the employer's representative (whose title is "VP Operations") asks that the case be reopened, explaining that he did not appear at the hearing because "I was unaware of the hearing until after the hearing took place. Upon returning from vacation, I received the notice, opened [sic], then called the office to inquire about the case." 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 failed to provide an adequate explanation as to why the vacation plans of its "VP Operations" prevented it from participating in the hearing. The employer did not assert that the "VP Operations" is its sole employee. We note that the hearing notice was issued almost two weeks in advance of the hearing, giving the employer adequate time to receive and open its business mail, find an employee other than the vacationing "VP Operations" to represent it at the hearing, or request postponement of the hearing. Because the employer failed to show that circumstances beyond its reasonable control prevented it from participating in the July 8, 2014 hearing, its 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-21215 is affirmed.

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

DATE of Service: August 18, 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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