

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1389

*Adopted  
No Disqualification*

**PROCEDURAL HISTORY:** On July 2, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 145135). Claimant filed a timely request for hearing. On July 30, 2014, ALJ R. Davis conducted a hearing, and on August 5, 2014, issued Hearing Decision 14-UI-22787, concluding that the employer discharged claimant, but not for misconduct. On August 18, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its application for review, the employer's representative explains that her failure to appear at the hearing "was an honest mistake on my part. I simply thought that I had put a reminder in my calendar to make the phone call and later realized that I had completely missed it." With the application for review, the employer's representative included a number of documents related to claimant's work performance that were not submitted for the hearing. Under OAR 471-041-0090 (October 29, 2006), EAB may consider information not offered into evidence at the hearing if the party presenting the information was prevented by circumstances beyond its reasonable control from offering the information at the hearing. It was well within the reasonable control of the employer's representative to place a reminder of the hearing in her calendar, or to take any other steps needed to remind herself about the hearing. Accordingly, the employer failed to show that circumstances beyond its reasonable control prevented it from appearing at the hearing. The information submitted with the employer's application for review will not be considered.

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-22787 is affirmed.

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

**DATE of Service: September 10, 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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