

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1891

*Affirmed  
No Disqualification*

**PROCEDURAL HISTORY:** On October 24, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 134632). Claimant filed a timely request for hearing. On December 1, 2014, ALJ Lohr conducted a hearing in which the employer did not participate, and issued Hearing Decision 14-UI-29611, concluding that the employer discharged claimant, but not for misconduct. On December 11, 2014, the employer filed an application for review with the Employment Appeals Board (EAB).

In its application for review, the employer's representative asked for "review of this case due to dismissal for failure to appear." 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. In support of its request, the employer's representative explained that he did not receive notice of the December 1 hearing until December 3, 2014. Notice of the December 1 hearing was mailed to the employer at its current address on November 21, 2014, 10 days prior to the scheduled hearing. The employer's representative provided no further details about the failure to receive the notice, *e.g.*, how the notice of hearing was received, what were the employer's office hours during the relevant period, when the employer's mail was delivered, picked up, and processed, and by whom, etc. Without these details, we have no reason to conclude that the employer's lack of notice was a circumstance beyond its reasonable control. Accordingly, the employer's 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-29611 is affirmed.

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

**DATE of Service: December 22, 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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