

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1893

Affirmed
Request to Reopen Denied
Disqualification

PROCEDURAL HISTORY: On September 17, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 123714). Claimant filed a timely request for hearing. On October 6, 2014, the Office of Administrative Hearings issued notice of a hearing scheduled for October 20, 2014 at 9:30 a.m. Claimant did not appear at the hearing. On October 20, 2014, ALJ L. Lee issued Hearing Decision 14-UI-27183 dismissing claimant's hearing request for failure to appear. On November 4, 2014 claimant submitted a timely request to reopen his hearing.

On December 8, 2014, ALJ Kangas reviewed claimant's request to reopen and issued Hearing Decision 14-UI-30011, denying claimant's request to reopen and leaving Hearing Decision 14-UI-27183 undisturbed. On December 12, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In his application for review, claimant asked for a hearing, asserting that he "did not receive the paperwork with the day and time of the hearing until after the scheduled day." Claimant also stated that he and his wife separated in October, and he "was unable to get my mail until I had a new lock installed for my mail box. It is a group of mailboxes for my neighborhood and had to be done thru [sic] the post office." Claimant'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. Claimant failed to provide any details regarding his difficulties with his mailbox, *e.g.*, why and how his separation from his wife prevented him from accessing his mail or obtaining a new lock for his mailbox. Without supporting details, we have no basis to conclude that circumstances beyond claimant's reasonable control prevented him from appearing at the October 20 hearing and presenting the information he now wants EAB to consider. In addition, claimant offered no explanation why he did not provide this information in his motion to reopen. Accordingly, claimant's request to present new information to EAB 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-30011 is affirmed.

Susan Rossiter and Tony Corcoran;
J. S. Cromwell, 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. 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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