

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1952

*Affirmed
Disqualification*

PROCEDURAL HISTORY: On October 20, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 80600). The employer filed a timely request for hearing. On December 4, 2014, ALJ Lohr conducted a hearing in which claimant did not participate, and on December 9, 2014, issued Hearing Decision 14-UI-30172, concluding that the employer discharged claimant for misconduct. On December 29, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

In her application for review, claimant asked that the hearing be reopened, so that she can present evidence regarding the work separation at issue. 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 presenting the information shows that circumstances beyond its reasonable control prevented it from offering the information at the hearing. In support of her request, claimant explained that on the day of the hearing, she was working and caring for a person who required 24-hour care and who had no telephone. Claimant asserted that she was unable to leave the person for whom she was caring to find a telephone to participate in the hearing. Claimant failed to explain why she was unable to request a postponement of the hearing once she learned that she would be working on the day of the hearing. Without such an explanation, we cannot conclude that circumstances beyond claimant's reasonable control prevented her from participating in a hearing on her work separation. Claimant's request to present new information is, therefore, 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-30172 is affirmed.

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

DATE of Service: January 6, 2015

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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