

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0126

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 19, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, not for misconduct (decision # 73849). Claimant filed a timely request for hearing. On January 28, 2015, ALJ R. Davis conducted a telephone hearing at which claimant failed to appear, and on February 4, 2015 issued Hearing Decision 15-UI-32936, concluding the employer discharged claimant for misconduct. On February 9, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

In his application for review, claimant stated that he was unable to call in to the hearing because he was unable to pay his telephone bill, and that he believed the Department would represent him at the hearing. Claimant's statement is construed as a request for EAB to consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information establishes that factors or circumstances beyond the party's reasonable control prevented the party from offering the information at the hearing.

While claimant was unable to call in to the hearing using his own telephone, he did not assert or show that he was unable to arrange for the use of an alternate telephone, such as that of a friend or family member, or those available to job seekers at his local WorkSource center. Nor did claimant's belief that the Department would represent him at the hearing prevent him from participating. Claimant therefore failed to establish that factors or circumstances beyond his reasonable control prevented him from appearing and offering information at the hearing. Claimant's request for EAB to consider new information therefore 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 15-UI-32936 is affirmed.

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

DATE of Service: March 24, 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 Court of Appeals website at courts.oregon.gov. Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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