

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0149

Affirmed
Disqualification

PROCEDURAL HISTORY: On January 7, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit work without good cause (decision # 133308). Claimant filed a timely request for hearing. On February 10, 2015, ALJ Triana conducted a hearing, and on February 11, 2015 issued Hearing Decision 15-UI-33309, affirming the Department's decision. On February 14, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered the entire hearing record and claimant's written argument. However, claimant's argument contained information that was not part of the hearing record. OAR 471-041-0090 (October 29, 2006) allows EAB to consider new information only when the party offering the information establishes that the new information is relevant and material to EAB's determination, and that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing. In her argument, claimant asserted that she did not offer the information into evidence at the hearing through testimony because she was "a little nervous" during the hearing, and therefore "left out" the information. However, claimant's assertion that she was a little nervous is insufficient to show that factors or circumstances beyond claimant's reasonable control presented her from offering the information into evidence at the hearing. Claimant's new information also is not merely additional information, but contradicted by her own sworn testimony during the hearing, and therefore is not material to EAB's determination. EAB therefore did not consider claimant's new information when reaching this decision.

On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 15-UI-33309 is affirmed.

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

DATE of Service: March 27, 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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