

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0194

Affirmed
No Disqualification

PROCEDURAL HISTORY: On December 30, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 102004). Claimant filed a timely request for hearing. On January 29, 2015, ALJ Wyatt conducted a hearing and issued Hearing Decision 15-UI-32863, concluding the employer discharged claimant, but not for misconduct. On February 5, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

On February 11, 2015, ALJ Wyatt issued an amended decision, Hearing Decision 15-UI-33401.¹ On February 19, 2015, EAB issued Appeals Board Decision 2015-UI-0115, affirming Hearing Decision 15-UI-32863. On February 20, 2015, the employer filed an application for review of Hearing Decision 15-UI-33401 (the amended hearing decision).

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

DECISION: Hearing Decision 15-UI-33401 is affirmed.

¹ The record fails to show any reason why an amended decision was issued in this matter. Hearing Decision 15-UI-33401 was identical in substantive content to Hearing Decision 15-UI-32863, and included no statement indicating why the ALJ issued it. At the time the ALJ issued the amended decision, jurisdiction had passed from the Office of Administrative Hearings (OAH) to EAB by reason of the employer's February 5, 2015 application for review, thereby divesting the ALJ of the authority to amend his original hearing decision. Also, despite this case being under EAB's jurisdiction at the time the ALJ issued the amended decision, neither the ALJ nor OAH notified EAB of the ALJ's amended decision.

² The hearing record in this matter is the same as the hearing record we reviewed before issuing Appeals Board Decision 2015-UI-0115. Because there are no differences in the record, and because the employer assigned no error to any portion of our previous decision, we adhere to our original decision in this matter.

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

DATE of Service: February 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 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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