

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0241

Affirmed
No Disqualification

PROCEDURAL HISTORY: On January 21, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 134752). The employer filed a timely request for hearing. On February 20, 2015, ALJ Wipperman conducted a hearing, and on February 24, 2015 issued Hearing Decision 15-UI-33983, affirming the Department's decision. On March 3, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond the employer's reasonable control prevented it from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). The employer had it within its reasonable control to provide all the information it had about claimant's work separation during the hearing, and to have any witness with relevant information about the separation testify at that time. For those reasons, we did not consider the employer's argument when reaching this decision. We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

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-33983 is affirmed.

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