

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0388

Affirmed
No Disqualification

PROCEDURAL HISTORY: On February 23, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 111318). Claimant filed a timely request for hearing. On March 12, 2015, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for March 18, 2015 at 1:15 p.m. On March 18, 2015, ALJ Murdock conducted a hearing, at which the employer did not appear, and issued Hearing Decision 15-UI-35358, concluding the employer discharged claimant, but not for misconduct. On April 1, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer included a letter in which its representative stated: “We did not receive the paperwork in time to schedule for the hearing and I was unavailable that day due to previously scheduled meetings.” The employer’s complaint is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allowed EAB to consider new information if the party offering the information shows that circumstances beyond the party’s reasonable control prevented it from presenting the information at the hearing. The employer provided no information regarding when the hearing notice was received, what attempts, if any, it made to contact OAH to postpone the hearing, what attempts, if any, the employer made to re-schedule other appointments in order to attend the hearing, or what prevented it from having another employer representative present at the hearing. Absent this information, the employer 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).

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-35358 is affirmed.

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

DATE of Service: April 22, 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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