

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0438

Adopted
No Disqualification

PROCEDURAL HISTORY: On February 19, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 72452). Claimant filed a timely request for hearing. On March 30, 2015, ALJ M. Davis conducted a hearing in which the employer did not participate, and on March 31, 2015, issued Hearing Decision 15-UI-36005, concluding that the employer discharged claimant, but not for misconduct. On April 16, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer's representative included a letter that provided information about claimant's work separation and an explanation why the employer did not participate in the hearing. The employer's letter is considered a request to have EAB consider additional evidence. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information if the party offering the information demonstrates that circumstances beyond its reasonable control prevented the party from offering the information at the hearing.

In the letter accompanying the application for review, the employer's representative states that it did not appear at the hearing because "[claimant] had not worked very many hours with us and it was not worth our time to fight it.I did not feel it important to have to sit here at a phone for 30 minutes when it does not impact our business in a large way." The employer's failure to participate in the hearing and offer the information it now wants us to consider resulted from a decision not to do so, a circumstance clearly within its reasonable control. For this reason, we must deny the employer's request to have EAB consider its additional evidence.

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-36005 is affirmed.

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