

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0568

Affirmed
No Disqualification

PROCEDURAL HISTORY: On April 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 142337). Claimant filed a timely request for hearing. On April 29, 2015, ALJ R. Davis conducted a hearing in which the employer did not participate, and on May 7, 2015, issued Hearing Decision 15-UI-38083, concluding that the employer discharged claimant, but not for misconduct. On April 15, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

With the application for review, the employer's representative included a letter "requesting reinstatement of the hearing." The employer's request is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006) which allows EAB to consider additional evidence if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. In support of its request, the employer's representative stated that:

I was unable to attend this hearing due to a customer emergency. I was shorthanded due to the resignation by [claimant], and I had to personally go out to a family home that had no heat in their home since the evening of April 28th. My 3 technicians were already out on their job sites when we received this information. Due to the cold weather in Bend, I needed to get to [sic] there as soon as I could to get heat going in the family home.

The employer's representative provided no details regarding the "customer emergency," such as when he learned about it, and how it prevented him from calling into the hearing to request a postponement. Without these details, we have no reason to conclude that the employer's failure to participate in the April 29 hearing resulted from circumstances beyond its reasonable control. The employer's request to present new evidence is therefore denied.

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-38083 is affirmed.

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

DATE of Service: May 26, 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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