

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0568-R

Appeals Board Decision 2015-EAB-0568 Adhered To On Reconsideration
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). On May 26, 2015, EAB issued Appeals Board Decision 2015-EAB-0568, affirming Hearing Decision 15-UI-38083. On May 29, 2015, the employer submitted a written argument to EAB. We exercise the discretion granted to us under ORS 675.290(3) and grant reconsideration to address some of the issues raised in the employer's May 29 submission.

The employer's May 29 letter consists of information in support of the employer's contention that claimant voluntarily left his job without good cause. As discussed in Appeals Board Decision 2015-EAB-0568, EAB may only consider new evidence if the party offering the evidence shows that circumstances beyond its reasonable control prevented it from offering the information at the hearing. OAR 471-041-0090 (October 29, 2006). Also in Appeals Board Decision 2015-EAB-0568, we concluded that the employer failed to demonstrate good cause for failing to appear for the hearing. The employer has offered no additional information or argument which would cause us to alter that conclusion. We therefore will not consider the evidence presented in the employer's May 29, 2015 letter.

On reconsideration, EAB may make a new decision "to the extent necessary and appropriate for the correction of previous error of fact or law." ORS 657.290(3). The employer failed to demonstrate good cause for failing to appear at the hearing to present the evidence it now wishes EAB to consider. We therefore conclude that we made no error of fact or law when we considered only evidence in the record developed at the hearing in Appeals Board Decision 2015-EAB-0568.

DECISION: Reconsideration is granted. We adhere to our decision in Appeals Board Decision 2015-EAB-0568 as clarified herein.

Susan Rossiter and J.S. Cromwell;
D. P. Hettle, *pro tempore*, not participating.

DATE of Service: June 5, 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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