

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0705**

*Affirmed*  
*Request to Reopen Denied*

**PROCEDURAL HISTORY:** On April 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 1045538). Claimant filed a timely request for hearing. On May 21, 2015, ALJ Triana conducted a hearing in which the employer failed to participate, and on May 21, 2015, issued Hearing Decision 15-UI-38914, concluding that the employer discharged claimant, but not for misconduct. The employer filed a timely request to reopen the hearing. On June 5, 2015, ALJ Kangas issued Hearing Decision 15-UI-39606, denying the employer's request to reopen. On June 10, 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). Therefore, we did not consider the argument when reaching this decision. Even had we considered the employer's argument, we would have reached the same result. In its argument, the employer gave the same reason for its failure to appear as it gave in its request to reopen: because it received the hearing notice one day before the hearing, it had insufficient time "to gather witnesses and prepare for the hearing previously scheduled." We agree with the ALJ that the employer could have requested the hearing be postponed, or participated in the hearing and asked for a continuance if it determined it needed to obtain additional evidence. Because it was within the employer's reasonable control to take these actions, the employer failed to demonstrate good cause for failing to appear at the hearing, and the ALJ properly denied the employer's request to reopen.

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-39606 is affirmed.

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

**DATE of Service: June 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](http://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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