

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0725

Affirmed
Eligible

PROCEDURAL HISTORY: On April 22, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from March 15, 2015 to April 11, 2015 (decision # 91730). Claimant filed a timely request for hearing. On May 19, 2015, ALJ Buckley conducted a hearing, and on May 22, 2015 issued Hearing Decision 15-UI-38934, concluding claimant was available for work from March 15, 2015 to April 11, 2015, April 19, 2015 to April 25, 2015 and May 3, 2015 to May 9, 2015. On June 11, 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). The argument also contained information that was not part of the hearing record, and 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). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2). Even if we had, the outcome would remain the same because the information the employer offered was not pertinent to claimant's availability for work during the weeks at issue.

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-38934 is affirmed.

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

DATE of Service: July 30, 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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