

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0837

Affirmed
Disqualification

PROCEDURAL HISTORY: On April 9, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision #75209) concluding claimant did not actively seek work from January 18 through March 7, 2015 (weeks 03-15 through 09-15) and March 22 through April 4, 2015 (weeks 12-15 and 13-15). That decision became final on April 29, 2015, without a request for hearing having been filed. On May 29, 2015, claimant filed a late request for hearing on decision #75209. On June 8, 2015, ALJ Kangas issued Hearing Decision 15-UI-39673, dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the request by submitting a response to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.¹ The Office of Administrative Hearings (OAH) received claimant's response within 14 days. On June 17, 2015, OAH issued a letter entitled, "Cancellation of Hearing Decision" and ordered that a hearing be set to address the timeliness of claimant's hearing request, and if appropriate, the merits of the underlying administrative decision. On July 2, 2015, ALJ Shoemake conducted a hearing, and on June 7, 2015, issued Hearing Decision 15-UI-41161, dismissing claimant's late request for hearing based on his failure to demonstrate good cause for his untimely request. On July 13, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant included a letter from an employer in which the employer explained that claimant was laid off due to lack of work in early 2015, and had been scheduled to return within two to three weeks. This evidence was not part of the hearing record. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new information if the information is relevant and material to EAB's determination, and if the party presenting the evidence shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. The circumstances of claimant's alleged layoff are not relevant to the issue before EAB: whether claimant had good cause for filing a late hearing request. Claimant's request to have EAB consider new information is therefore denied.

¹ Hearing Decision 15-UI-39673.

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-41161 is affirmed.

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

DATE of Service: July 15, 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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