

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0856**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On April 13, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 13224). Claimant filed a timely request for hearing. On April 22, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for May 6, 2015. Claimant failed to appear at the hearing. On May 8, 2015, ALJ Vincent issued Hearing Decision 2015-UI-32422, concluding that claimant withdrew her hearing request, and dismissing the request for that reason. On May 27, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On June 2, 2015, EAB issued Appeals Board Decision 2015-EAB-0856, concluding that claimant did not withdraw her request for hearing, reversing Hearing Decision 2015-UI-32422, and instructing OAH to treat claimant's application for review as a request to reopen the hearing under OAR 471-040-0040(4)(February 10, 2012).

On June 9, 2015, OAH issued notice of a hearing scheduled for June 24, 2015. On June 24, 2015, ALJ R. Davis conducted a hearing in which the employer failed to participate, and on June 26, 2015, issued Hearing Decision 15-UI-40744 in which the ALJ granted claimant's request to reopen and concluded that the employer discharged claimant, not for misconduct. On July 15, 2015, the employer filed an application for review of Hearing Decision 15-UI-40744 with EAB.

In the application for review, the employer's representative asked that the hearing be reopened. The employer's request is construed as a request to have EAB consider additional evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party presenting the information shows that it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. In support of the employer's request, the representative stated that "[d]ue to an unintentional oversight, I was unaware of the hearing that was scheduled on June 24, 2015. During that general time frame, my husband was hospitalized for 9 days, and somehow the mailing about the hearing escaped my notice during that time." The representative failed to provide any details about her husband's hospitalization, *e.g.*, when he was hospitalized, and how the circumstances of this hospitalization interfered with her ability to read or process her mail. Without such details, we have no

reason to conclude that the employer's failure to appear at the hearing was due to circumstances beyond its reasonable control. The employer's request to consider new information therefore is 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-40744 is affirmed.

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

**DATE of Service: July 16, 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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