

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0873**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On May 29, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 150554). Claimant filed a timely request for hearing. On June 15, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for June 29, 2015. The hearing notice was sent to the employer at the following address: 10900 Research Blvd Ste 160c58, Austin, TX 78759-7522. On June 29, 2015, ALJ Murdock conducted a hearing at which the employer failed to appear, and on June 30, 2015, issued Hearing Decision 15-UI-49876, concluding that the employer discharged claimant, but not for misconduct. Hearing Decision 15-UI-49876 was sent to the employer at the same address to which the hearing notice was sent. On July 17, 2015, the employer filed an application for review with the Employment Appeals Board (EAB). The employer used a form provided with Hearing Decision 15-UI-49876 to file the application for review. On this form, the employer stated its address was 10900 Research Blvd, Ste 160, Austin TX 78759.

With its application for review, the employer included a letter in which it provided information about the claimant's work separation and explained that it did not attend the hearing because it did not receive notice of the hearing. We construe the employer's letter as a request to present new evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party presenting the information shows that circumstances beyond its reasonable control prevented it from offering the information at the hearing. The employer provided no details about the lack of notice, such as problems it had been experiencing with receiving or processing its mail. We infer (and the employer never asserted) that the typographical error in the employer's address to which OAH sent the hearing notice was not responsible for the employer's failure to receive the notice. Although Hearing Decision 15-UI-49876 was sent to the same incorrect address as was the notice of hearing, the record shows that the employer received the hearing decision, given that the employer used the form provided with the hearing decision to file its application for review. Without more, the employer's bare assertion that it did not receive notice of the hearing in the mail is insufficient to rebut the presumption that documents sent through the US Postal Service have been received by the addressee. *See* OAR 137-003-0520 (January 31, 2012). The employer's request to have EAB consider new information is therefore 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-40876 is affirmed.

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

**DATE of Service:** July 24, 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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