

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1049-R**

*Appeals Board Decision 2015-EAB-1049 Adhered to on Reconsideration  
Disqualification*

**PROCEDURAL HISTORY:** On July 8, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 84727). Claimant filed a timely request for hearing. On August 20, 2015, ALJ Triana conducted a hearing, and on August 29, 2015, issued Hearing Decision 15-UI-43479, concluding that the employer discharged claimant for misconduct. On August 29, 2015, claimant filed an application for review with the Employment Appeals Board (EAB). On September 10, 2015, EAB issued Appeals Board Decision 2015-EAB-1049, affirming Hearing Decision 15-UI-43749. Also on September 10, 2015, EAB received claimant's written argument. EAB will exercise its discretion under ORS 657.290(3) and reconsider its decision to address some of the issues raised in claimant's argument.

**CONCLUSION AND REASONS:** On reconsideration, Hearing Decision 15-UI-43479 is affirmed. The employer discharged claimant for misconduct, and she is disqualified from the receipt of unemployment benefits based on this work separation.

In Hearing Decision 15-UI-43479, the ALJ found that the employer expected that claimant, who worked as a telephone customer service representative for a cruise ship line, would remain on the line with a customer until she had finished assisting the customer or answering the customer's questions. The ALJ concluded that claimant willfully violated this expectation when she prematurely ended (or released) three customer calls on May 23, June 12 and June 13, 2015. In her argument, claimant asserted that she was unaware of the employer's expectation regarding the release of customer calls. Written Argument at 1. We disagree. As a matter of common sense, claimant knew or should have known that her job required her to finish helping a customer before ending a call. Evidence presented at the hearing, which consisted of testimony based on a review of recordings of the calls at issue, showed that on May 23, claimant ended the call while the customer was still speaking. Transcript at 11. On June 13, claimant ended a call while the customer was still asking her questions. Transcript at 13.

In regard to the June 12 call, claimant stated in her written argument that the customer was angry and belligerent and that she “honestly did not know how to handle this.” Written Argument at 2. At the hearing, however, claimant testified that she spoke with the customer twice on June 12. After she ended the first call because of the customer’s rude behavior, claimant testified that the customer called back and she transferred this second call to the to the employer’s “Resolutions Team,” an action she understood the employer expected her to take if a customer was dissatisfied. Transcript at 28-29 and 34. When the ALJ asked claimant why she did not transfer the first call to the “Resolutions Team,” claimant could provide no plausible reason why she had not done so. Transcript at 34. Based on evidence presented at the hearing, we therefore conclude that the ALJ did not err when she held that claimant understood the employer’s expectations regarding when to end a customer call, and violated these expectations on three occasions.

On reconsideration, EAB may make a new decision “to the extent necessary and appropriate for the correction of previous error of fact or law.” ORS 657.290(3). We conclude that we made no error of fact or law in affirming Hearing Decision 15-UI-43479 and therefore adhere to it.

**DECISION:** Reconsideration is granted. We adhere to EAB Decision 2015-EAB-1049 as clarified herein.

Susan Rossiter and J. S. Cromwell

**DATE of Service: September 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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