

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1061-R**

*Request for Reconsideration Granted*  
*Appeals Board Decision 2015-EAB-1061 Adhered to on Reconsideration*

**PROCEDURAL HISTORY:** On July 24, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 80630). Claimant filed a timely request for hearing. On August 24, 2015, ALJ Frank conducted a hearing in which the employer did not participate, and on August 28, 2015, issued Hearing Decision 15-UI-43640, concluding that the employer discharged claimant, but not for misconduct. On September 2, 2015, the employer filed an application for review with the Employment Appeals Board (EAB). On September 8, 2015, EAB issued Appeals Board Decision 2015-EAB-1061, affirming Hearing Decision 15-UI-43640. On September 21, 2015, the employer submitted a letter to EAB in which he provided information regarding claimant's work separation. EAB will exercise its discretion under ORS 657.290(3) to reconsider its decision and address the employer's letter.

The information presented in the employer's letter is new evidence which is not part of the hearing record. Under OAR 471-041-0090 (October 26, 2009), EAB may consider new information if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. In its September 21 letter, the employer's representative stated that he did not appear at the hearing because he was busy with a "high priority order" and "missed the phone call by 15 minutes." This is essentially the same reason that the employer's representative gave for missing the hearing in the written argument submitted in the application for review of Hearing Decision 15-UI-43640. As we stated in Appeals Board Decision 2015-EAB-1061, the employer's representative has provided no details regarding when, why, and how preparing the customer order prevented him from participating in the hearing. Without these details, we cannot conclude that circumstances beyond the employer's reasonable control prevented its representative from participating in the hearing.

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-43640 and therefore adhere to Appeals Board Decision 2015-EAB-1061.

**DECISION:** Reconsideration is granted. We adhere to EAB Decision 2015-EAB-1061.

Susan Rossiter and J. S. Cromwell

**DATE of Service: September 29, 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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