

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1285**

*Adopted*  
*Disqualification*

**PROCEDURAL HISTORY:** On September 22, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 74245). Claimant filed a timely request for hearing. On October 7, 2015, the Office of Administrative Hearings issued notice of a hearing scheduled for October 21, 2015. On October 21, 2015, ALJ R. Frank conducted a hearing, and on October 22, 2015 issued Hearing Decision 15-UI-46387, affirming the Department's decision. On October 29, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

In her written argument, claimant provided information about her work separation that she did not present at the hearing. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new evidence if the party presenting the evidence demonstrates that circumstances beyond its reasonable control prevented it from providing the information at the hearing. As an explanation for her failure to present the information contained in her written argument at the hearing, claimant asserted that “[d]uring the [hearing before the ALJ] I did not become aware that it was my right to send letters and statements or to prove my case.” Written Argument at 6. However, the hearing notice sent to her on October 7<sup>th</sup> stated that parties would be allowed to present evidence at the hearing, and explained the procedure for submitting any documents parties wanted to use during the hearing. Notice of Hearing, pages 1 and 4. The hearing notice also advised parties that “[t]he hearing decision and any further appeals are based only on the record made at the hearing.” *Id.* It was well within claimant's reasonable control to carefully read the hearing notice and understand her right as well as the need to present documentary evidence at the hearing. For this reason, we will not consider the new evidence presented in claimant's written argument. The remainder of claimant's written argument was considered to the extent it was relevant and based on the hearing record.

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-46387 is affirmed.

Susan Rossiter and J. S. Cromwell

**DATE of Service: November 6, 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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