

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1322

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On August 6, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 15154). The employer filed a timely request for hearing. On September 1, 2015, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for September 8, 2015. On September 8, 2015, ALJ Triana issued Hearing Decision 15-UI-44057, dismissing the employer's hearing request for failure to appear at the hearing. The employer filed a timely request to reopen. On September 22, 2015, the OAH served notice of a hearing scheduled for October 7, 2015. On October 7, 2015, ALJ Wyatt issued Hearing Decision 15-UI-45525, dismissing the employer's hearing request for failure to appear at the hearing. The employer filed a timely request to reopen. On October 28, 2015, ALJ Kangas issued Hearing Decision 15-UI-46673, denying the employer's request to reopen. On November 6, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

On November 9, 2015, the employer submitted a letter to EAB with information about the claimant's work separation which was not part of the record in this case. Under OAR 471-041-0090, EAB may consider new evidence if the information is relevant and material to EAB's determination, and the party presenting the information shows that circumstances beyond its reasonable control prevented it from presenting the information at a hearing. The issue presented to EAB in this case is whether the employer had good cause to reopen the hearing under OAR 471-040-0040 (February 10, 2012). Because evidence regarding claimant's work separation is not relevant to this issue, we will not consider the information in the employer's November 9 letter.

EAB reviewed the entire record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 15-UI-46673 is **adopted**.

DECISION: Hearing Decision 15-UI-46673 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: November 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. 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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