

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1478**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On October 22, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 95207). Claimant filed a timely request for hearing. On November 30, 2015, ALJ Vincent conducted a hearing in which the employer did not participate, and on December 2, 2015, issued Hearing Decision 15-UI-48635, concluding that the employer discharged claimant, but not for misconduct. On December 7, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

By letter dated December 9, 2015, the employer's owner apologized for her failure to participate in the hearing and presented evidence regarding claimant's work separation. The employer's letter is construed as a request to have EAB consider additional evidence under OAR 471-041-0090(October 29, 2006), which allows EAB to 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 support of her request, the employer's owner stated that she "called in on the wrong day" for the hearing, and explained that she is "very overwhelmed" as a single mother and small business owner. It was well within the reasonable control of the employer's owner to carefully read the hearing notice, note the day on which the hearing was scheduled, and take appropriate steps to ensure her participation. The employer's request to present 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-48635 is affirmed.

Susan Rossiter and J. S. Cromwell

**DATE of Service:** December 14, 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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