

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-1510**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On October 15, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 90906). Claimant filed a timely request for hearing. On November 25, 2015, ALJ Wyatt conducted a hearing, at which the employer did not appear, and on November 30, 2015 issued Hearing Decision 15-UI-48453, concluding claimant's discharge was not for misconduct. On December 18, 2015, the employer filed an application for review with the Employment Appeals Board (EAB).

In written argument, the employer asked for a new hearing on the grounds that the envelope containing the notice of hearing was misplaced in the owner's manager's office. The employer's request for relief 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. Because human error of the sort that caused the employer to miss the hearing is considered to be within a party's reasonable control to avoid, the employer's request must be 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-48453 is affirmed.

Susan Rossiter and J. S. Cromwell

**DATE of Service:** December 28, 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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