

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1511

Affirmed
No Disqualification

PROCEDURAL HISTORY: On October 21, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 151805). Claimant filed a timely request for hearing. On November 30, 2015, ALJ Logan conducted a hearing, at which the employer failed to appear, and on December 4, 2015 issued Hearing Decision 15-UI-48845, concluding claimant quit work with good cause. The employer filed a timely application for review with the Employment Appeals Board (EAB).

In its written argument, the employer asked for a new hearing on the grounds that it had inadequate notice of the hearing, and so was unable to offer evidence into the hearing record. The employer's request for relief is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider information 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 its request, the employer's representative stated only that it "did not get the hearing notice on the day of the hearing and there was no time to notify the employer to get them prepared." No other details were provided, e.g., when the notice was received, what accounted for any delays by the employer in processing the notice or contacting the employer, whether or why the employer's representative lacked the time to contact the employer, whether the employer requested the hearing be postponed, and, if not, why not. Without supporting details, we have no basis on which to conclude that the employer's lack of notice was a circumstance beyond its reasonable control. Additionally, the record shows that notice of the November 30th hearing was mailed to the employer on November 18th, 12 days before the hearing, and the record fails to show why a notice mailed that far in advance of the hearing would not have been received in time for the employer to participate in the hearing. The employer's request to consider new information under OAR 471-041-0090 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-48845 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. 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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