

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0047

Affirmed
No Disqualification

PROCEDURAL HISTORY: On November 13, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 92619). Claimant filed a timely request for hearing. On December 23, 2015, ALJ M. Davis conducted a hearing in which the employer did not participate, and on December 24, 2015, issued Hearing Decision 15-UI-49992, reversing the administrative decision and concluding . On January 7, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

By letter dated January 12, 2016, the employer's owner requested that the hearing be reopened and presented information about the claimant's work separation. The owner's request is construed as a request to have EAB consider new evidence under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider new information if the party offering the information shows that circumstances beyond its reasonable control prevented the party from offering the information at the hearing. In support of its request, the owner explained that he received no notice of the hearing until the day before it was scheduled to occur. In addition, the owner asserted that because the hearing occurred during the Christmas season, a very busy time for the employer's delivery business, the owner was unable to participate. The owner failed to explain why he or another employer representative was unable to contact the Office of Administrative Hearings to request postponement of the hearing. The 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-49992 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: January 14, 2016

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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