

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0105**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 24, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 133148). Claimant filed a timely request for hearing. On January 7, 2016, the Office of Administrative Hearings (OAH), located in Salem, Oregon, mailed notice of a hearing scheduled for January 22, 2016. On January 22, 2016, ALJ Murdock conducted a hearing in which the employer did not participate, and issued Hearing Decision 16-UI-51588, concluding that the employer discharged claimant, but not for misconduct. On January 29, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer's representative, Equifax Workforce Solutions, whose mailing address is in Denver, Colorado, included a letter in which it asked that the hearing be reopened. The employer'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 demonstrates that circumstances beyond its reasonable control prevented the party from presenting the information at the hearing. In support of its request, the employer provided the following statement from employee Joan Vance: "I did not receive the hearing notice set for January 22, 2016 until January 25, 2016." Ms. Vance did not explain when the employer's representative received the hearing notice, and it is implausible that mail would take 18 days to travel from Salem, Oregon to Denver, Colorado. In addition, Ms. Vance provided no additional details, such as how mail is delivered to, received, and processed by the employer's representative, and what role Ms. Vance plays in this process. Without these details, we have no basis to conclude that the lack of notice of the hearing on the part of the employer's representative was a circumstance beyond its reasonable control. We therefore deny the employer's request to consider new information.

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 16-UI-51588 is affirmed.

Susan Rossiter and J. S. Cromwell

**DATE of Service: February 1, 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](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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