

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0206

Affirmed
No Disqualification

PROCEDURAL HISTORY: On November 17, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 145857). Claimant filed a timely request for hearing. On January 26, 2016, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for February 9, 2016. On February 9, 2016, ALJ Lohuis conducted a hearing, and issued Hearing Decision 16-UI-52643, concluding that the employer discharged claimant, but not for misconduct. On February 25, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer submitted a letter in which it asked for a new hearing. 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 presenting the information demonstrates that circumstance beyond its reasonable control prevented the party from presenting the information at the hearing. In support of its request, the employer asserted that "[o]ur corporate office in Louisville, Kentucky, Cardinal Aluminum, received the appeal information. It was not forwarded to us in a timely manner." The OAH mailed the notice of the hearing to the employer's address of record with the Department: 6910 Preston Hwy, Louisville, KY 40219. The employer provided no details about its failure to timely receive the hearing notice, *i.e.*, when the Louisville office received the hearing notice, how the Louisville office processed the hearing notice, when the notice was sent to the employer's Portland office, etc. Without these details, we have no reason to conclude that the corporate office's failure to notify the employer's local office of the February 9 hearing resulted from circumstances beyond its reasonable control. The employer's request to have EAB consider 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 16-UI-52643 is affirmed.

Susan Rossiter and J. S. Cromwell;

D. H. Hettle, not participating.

DATE of Service: February 29, 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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