

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0218**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On January 11, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 74531). Claimant filed a timely request for hearing. On February 17, 2016, ALJ Triana conducted a hearing in which the employer did not participate, and on February 18, 2016, issued Hearing Decision 16-UI-53216, concluding that the employer discharged claimant, but not for misconduct. On February 24, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

By letter dated February 29, 2016, the employer's representative asked for a new hearing in this matter. The employer's letter is construed as a request to have EAB consider new information under OAR 471-041-0090, which allows EAB to consider new evidence if the party presenting the evidence demonstrates that circumstances beyond the party's reasonable control prevented it from presenting the information at the hearing. In support of its request, the employer's representative stated that "[t]he employer was unavailable on the scheduled date of the hearing." No additional information was provided to explain why the employer was unavailable on the date of the hearing. Without such details, we have no reason to conclude that the employer's unavailability for the hearing was a circumstance beyond its reasonable control. The employer's 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 record under review is **adopted**.

**DECISION:** Hearing Decision 16-UI-53216 is affirmed.

Susan Rossiter and J. S. Cromwell;  
D. P. Hettle, not participating.

**DATE of Service:** March 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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