

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0296

Affirmed
Disqualification

PROCEDURAL HISTORY: On February 4, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 155404). Claimant filed a timely request for hearing. On March 9, 2016, ALJ R. Frank conducted a hearing, and on March 11, 2016 issued Hearing Decision 16-UI-54923, affirming the Department's decision. On March 15, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. See ORS 657.275(2). Even if we had considered claimant's argument the outcome of this decision would remain the same because the record shows that claimant engaged in criminal activity that caused her to lose her certification to work as a home caregiver, thus creating the circumstances under which it was impossible for the employer to continue to employ, which is considered misconduct for purposes of receiving unemployment insurance benefits.

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-54923 is affirmed.

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

DATE of Service: April 4, 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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