

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0500**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 10, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 72520). Claimant filed a timely request for hearing. On April 12, 2016, ALJ M. Davis conducted a hearing at which the employer failed to appear, and on April 13, 2016, issued Hearing Decision UI-16-57143, concluding that the employer discharged claimant, but not for misconduct. On May 2, 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 the employer's chef stated that he missed the hearing because at the time of the hearing, he was the manager on duty and required to resolve a customer service issue. The chef explained that "[w]e are in the customer service business unfortunately it was a priority at the time to take care of a problem." The employer's request is construed as a request to have EAB consider new information 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 immediate control prevented the party from presenting the information at the hearing. The chef provided no details regarding the customer problem that required his attention at the time the hearing was scheduled to begin, *e.g.*, what was the nature of the customer problem, why the chef's immediate attention was necessary, and why the chef was unable to have another employee call into the hearing and request a postponement. Without these details, we have no reason to conclude that the customer issue was a circumstance beyond the employer's reasonable control that prevented it from presenting information at the hearing. 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-57143 is affirmed.  
Susan Rossiter and D. P. Hettle;  
J. S. Cromwell, not participating.

**DATE of Service: May 5, 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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