

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0617**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On March 21, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 90844). Claimant filed a timely request for hearing. On May 13, 2016, ALJ Wyatt conducted a hearing, and on May 20, 2016, issued Hearing Decision 16-UI-60094, concluding that the employer discharged claimant, but not for misconduct. On May 24, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**EVIDENTIARY MATTERS:** At the May 13 hearing, the ALJ admitted documents into the record as Exhibits 1 through 5 respectively. However, on this record, the exhibits admitted were not marked. Accordingly, we have marked Exhibits 1 through 5 based on the ALJ's descriptions. The exhibits consist of the following documents:

Exhibit 1: 2/12/16 letter from the employer to claimant (2 pages); summary of a 2/12/16 meeting with claimant and her supervisor (1 page); employer policies from its handbook (2 pages); claimant's 12/18/13 signed acknowledgement of receipt of the handbook (1 page); description of the dental benefits provided by the employer (1 page); report showing changes made in claimant's time cards for the period from 1/5/15 to 2/4/16 (3 pages); copy of decision # 90844 (1 page); and a copy of the Department's "Benefit Accuracy Measurement – Employer Separation" form filled out by the employer (4 pages).

Exhibit 2: report of claimant's gross earnings from January 2015 to February 2015 compared to her earnings from January 2016 to February 2016 (1 page) and a summary of a 4/29/16 voice mail left by claimant's supervisor (1 page).

Exhibit 3: claimant's statement regarding her work separation (2 pages); report of claimant's insurance transactions for 7/7/15 (1 page); report showing changes made in claimant's time cards for the period 1/1/15 to 2/12/16 (1 page); copies of claimant's 2/5/16 and 1/22/16 paychecks (2 pages); claimant's earnings statement for the 12/7/15 through 12/20/15 pay period (1 page); copies of claimant's 12/11/15,

6/26/15 and 4/17/15 paychecks (3 pages); and account histories for dental services provided by the employer to claimant and a family member (2 pages).

Exhibit 4: report regarding claimant's insurance transactions dated 7/7/15 (1 page); report of changes made in claimant's time cards for the period from 1/1/15 to 2/12/16 (1 page); copies of claimant's 1/22/15 and 2/5/16 paychecks (2 pages); claimant's earnings statement for the 12/7/15 through 12/20/15 pay period (1 page); a copy of claimant's 12/23/15, 12/11/15, 11/25/15, 10/2/15, 9/18/15, 8/21/15, 7/24/15, 6/26/15, 5/15/15, 4/17/15, 3/6/15, and 2/20/15 paychecks (12 pages); and account histories for dental services provided by the employer to claimant's family member (4 pages).

Exhibit 5: claimant's earnings statements for the 12/22/14 to 1/4/15, 1/5/15 to 1/18/15, and 1/19/15 to 2/6/15 pay periods (3 pages); copies of hotel bills for claimant's family member (3 pages); receipts for gas purchases made by claimant's family member (1 page); an excerpt from claimant's calendar; claimant's earnings statements for the 2/2/15 to 2/15/15, 12/21/15 to 1/3/16, 1/4/16 to 1/17/16, 1/18/16 to 1/31/16 pay periods (4 pages); claimant's statement regarding text messages with her supervisor<sup>1</sup> and screen shots of text messages ( 11 pages); and account histories for dental services provided by the employer to claimant and family members (4 pages).

**CONCLUSION:** 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-60094 is affirmed.

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

**DATE of Service: June 23, 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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<sup>1</sup> Exhibit 5 contains two copies of claimant's statement concerning these text messages.