

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-0656**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On April 21, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 140423). Claimant filed a timely request for hearing. On May 17, 2016, ALJ Vincent conducted a hearing, at which the employer failed to appear, and on May 24, 2016 issued Hearing Decision 16-UI-60287, concluding the employer discharged claimant, but not for misconduct. On June 3, 2016, the employer filed an application for review with the Employment Appeals Board (EAB).

In written argument, the employer asked for a new hearing on the grounds that it was unable to appear and present evidence on May 17th. The employer's request for relief is construed as a request to have EAB consider new information under OAR 471-041-0090 (October 29, 2006), which allows EAB to consider information not presented at the hearing if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. In support of its request, the employer asserted that it was prevented from attending the hearing because it was short staffed at two places of business and the hearing "slipped off the calendar." The employer did not assert or show what, if any, attempt was made to participate in the hearing despite those circumstances, nor show what, if any, attempt was made to secure a postponement of the hearing to a different or more convenient date. 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-60287 is affirmed.

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

**DATE of Service:** June 9, 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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