

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0673

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On April 6, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 142954). Claimant filed a timely request for hearing. On May 4, 2016, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for May 18, 2016. On May 19, 2016, ALJ Wyatt issued Hearing Decision 16-UI-59906, dismissing claimant's hearing request for failure to appear at the hearing. Claimant filed a timely request to reopen. On June 3, 2016, ALJ Kangas issued Hearing Decision 16-UI-60983, denying claimant's request to reopen. On June 7, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

On the form claimant used to file his application for review, claimant stated, in relevant part: "On May 18th I had my phone on all day at my wifes [sic] surgery and no one called me. Then I found out the next day I was supposed to call them." The information claimant provided on his application for review is new, and was not part of the record in this case. Under OAR 471-041-0090, EAB may consider new information if the party presenting the information demonstrates that it is relevant and material to EAB's determination, and that circumstances beyond the party's reasonable control prevented it from presenting the information at a hearing. Claimant did not assert or show that circumstances beyond his reasonable control prevented him from including his new information in his request to reopen. Nor is claimant's new information material to EAB's determination. The hearing notice that claimant received for the May 18 hearing clearly explained that to participate in the scheduled telephone hearing, parties were required to call into the hearing; the notice provided the telephone number to call, and the code used to access the hearing. It was well within claimant's reasonable control to carefully read the hearing notice and understand the proper procedure for participating in the hearing. We therefore did not consider the information claimant provided with his application for review.

EAB reviewed the entire record in this case. On *de novo* review and pursuant to ORS 675.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 16-UI-60983 is affirmed.

Susan Rossiter and D. P. Hettle;
J. S. Cromwell, 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. 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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