

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0703

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 6, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 70948). The employer filed a timely request for hearing. On May 17, 2016, the Office of Administrative Hearings issued notice of a hearing scheduled for May 31, 2016. On May 31, 2016, ALJ Murdock conducted a hearing in which claimant did not participate, and on June 6, 2016, issued Hearing Decision 16-UI-61125, concluding that the employer discharged claimant for misconduct. On June 14, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

With her application for review, claimant included a letter in which she provided information about her work separation and asked for “an opportunity to defend myself in regards to these charges.” Claimant’s request is considered 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 reasonable control prevented the party from presenting the information at the hearing. In support of her request, claimant asserted that she never received notice of the May 31 hearing. Claimant provided no further details about reasons why she did not receive the hearing request, such as problems she may have been experiencing with her mail. Without such details, we have no reason to conclude that circumstances beyond claimant’s reasonable control prevented her from participating in the hearing and offering the information she now wants EAB to consider. Claimant’s request to present 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-61125 is affirmed.

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

DATE of Service: June 24, 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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