

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0967

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 20, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work with good cause (decision # 134371). The employer filed a timely request for a hearing. On June 17, 2016, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for July 1, 2016. On June 30, 2016, OAH denied claimant's request for a postponement of the hearing. On July 1, 2016, however, OAH issued a "Change Notice of Hearing," changing the date of the hearing to July 25, 2016. On July 25, 2016, ALJ Shoemake conducted a hearing in which claimant did not participate, and on August 1, 2016, issued Hearing Decision 16-UI-64791, concluding that claimant voluntarily left work without good cause. On August 19, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

On August 22, 2016, claimant submitted a letter to EAB in which he stated that he missed "the hearing on the morning of 8/1/16 due to a surgery follow-up with my doctor both appointments were on the same day." Claimant's letter 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 presenting the information demonstrates that circumstances beyond the party's reasonable control prevented the party from offering the new information at the hearing. Claimant's letter explained why he was unable to appear at an August 1 hearing, but provides no explanation why he failed to appear at a July 25 hearing. Even if we were to assume that the date in the letter was a scrivener's error, and that claimant's doctor's appointment prevented him from appear at the July 25 hearing, claimant failed to explain why he was unable to reschedule his doctor's appointment for another day or time, or contact OAH to request that the hearing be rescheduled because it conflicted with his doctor's appointment. Claimant has therefore failed to demonstrate that any circumstances beyond his reasonable control prevented him from appearing at the July 25 hearing, and his request to present new information is denied.

EAB considered 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-64791 is affirmed.

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

DATE of Service: August 26, 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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