

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1208**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On September 9, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant, but not for misconduct (decision # 71756). The employer filed a timely request for hearing. On October 17, 2016, ALJ S. Lee conducted a hearing in which claimant did not participate, and on October 20, 2016, issued Hearing Decision 16-UI-69587, concluding that the employer discharged claimant for misconduct. On October 25, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

By letter to EAB dated October 27, 2016, claimant explained that was unable to attend the hearing “because I was going to work.” Claimant’s letter is construed as a request to have EAB consider new information under OAR 471-041-0090, which allows EAB to consider new information if the party presenting the information demonstrates that circumstances beyond the party’s control prevented the party from offering the information at the hearing. Although claimant asserted his work prevented him from attending the hearing, he failed to explain why he was unable either to arrange for time off from his job work to participate in the hearing, or to request that the hearing be postponed to a day and time when he was not working. Without this information, EAB has no reason to conclude that circumstances beyond claimant’s reasonable control prevented him from participating in the hearing. 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-69587 is affirmed.

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

**DATE of Service: October 31, 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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