

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1233**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On August 29, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant voluntarily left work without good cause (decision # 113051). On September 16, 2016, the Department served notice of an administrative decision (decision # 155024) concluding that claimant was available for and actively searched for work from July 10 through July 23, 2016. On September 19, 2016, decision # 113051 became final without a request for hearing having been filed. On October 3, 2016, claimant filed a timely request for hearing on decision # 155024, and an untimely request for hearing on decision # 113051. On October 7, 2016, ALJ Kangas issued Hearing Decision 16-UI-68771, dismissing claimant's hearing request on decision # 155024 as non-justiciable, and Hearing Decision 16-UI-68774, dismissing claimant's hearing request on decision # 113051 as untimely, subject to claimant's right to renew the hearing request by responding to an appellant questionnaire within 14 days. On October 27, 2016, claimant submitted his response to the appellant questionnaire and filed an application for review of Hearing Decision 16-UI-68774 with the Employment Appeals Board (EAB). On November 3, 2016, ALJ Kangas issued a letter notifying claimant that, because response to the appellant questionnaire was late, OAH would not review its contents.

On October 31, 2016, claimant submitted his response to the appellant questionnaire to EAB. We construe claimant's submission of the questionnaire 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 information is relevant and material to EAB's determination, and if the party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. Although the ALJ's refusal to consider claimant's appellant questionnaire was a circumstance beyond claimant's reasonable control, the information in the appellant questionnaire is not relevant or material to EAB's determination. In his questionnaire, claimant provided no explanation why he filed an untimely request for a hearing on decision # 113051. Claimant stated in the questionnaire that he mailed information about jobs to the Department as soon as he received it. Because claimant's response appears to concern his work search and not his untimely hearing request, it is not relevant or material to the issue before EAB --whether he demonstrated good cause for filing a late hearing request as required by ORS 657.875. Claimant's request to present new

information is therefore denied, and we did not consider the information in the appellant questionnaire in reaching this decision.

EAB reviewed the entire record in this case. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 16-UI-68774 is affirmed.

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

**DATE of Service: November 8, 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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