

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0036

Affirmed
No Disqualification

PROCEDURAL HISTORY: On December 6, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 84822). Claimant filed a timely request for hearing. On January 3, 2017, ALJ M. Davis conducted a hearing, at which the employer failed to appear, and issued Hearing Decision 17-UI-73952, concluding the claimant quit work with good cause. On January 9, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review, the employer submitted written argument in which offered new information regarding claimant's work separation, and asked for another opportunity to "present [its] side." The employer's argument is construed as a request for EAB to consider new information under OAR 471-041-0090(2) (October 29, 2006), which states that new information may be considered when the party offering the information establishes that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing. In support of its request, the employer asserted that it failed to appear at the January 3, 2017 hearing because its owner, who was going to appear on the employer's behalf, lost track of the time while shoveling snow from his driveway. However, it was within the owner's reasonable control to keep track of the time, appear at the hearing, and offer the employer's information into evidence at that time. The employer's request for EAB to consider new information under OAR 471-041-0090(2) therefore is 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 17-UI-73952 is affirmed.

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

DATE of Service: January 19, 2017

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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.