

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0857**

*Reversed & Remanded*

**PROCEDURAL HISTORY:** On May 26, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 131729). The employer filed a timely request for hearing. On July 12, 2017, ALJ Janzen conducted a hearing, at which claimant failed to appear, and on July 13, 2017 issued Hearing Decision 17-UI-87845, concluding claimant's discharge was for misconduct. On July 19, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**CONCLUSIONS AND REASONS:** This matter is reversed as unsupported by a complete record, and remanded to the Office of Administrative Hearings (OAH) for additional proceedings.

With his application for review, claimant submitted a written argument in which he asked for a new hearing. Claimant's request for relief is construed 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 party offering the information shows it was prevented by circumstances beyond its reasonable control from presenting the information at the hearing. Claimant argued that he failed to attend the hearing and offer evidence about his work separation because technical problems prevented him from connecting to the telephone hearing in this matter despite his reasonable efforts to do so. It is more likely than not that the technical problems claimant encountered constituted factors or circumstances beyond his reasonable control. Claimant's request to submit new information is therefore allowed, and this matter remanded to OAH for a new hearing on the merits of decision # 131729.

**Note:** The failure by any party to appear at the hearing on remand will not reinstate Hearing Decision 17-UI-87845 or return this matter to EAB. Only a timely application for review of any subsequent hearing decision will cause this matter to return to EAB.

**DECISION:** Hearing Decision 17-UI-87845 is set aside, and this matter remanded for further proceedings consistent with this order.

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

**DATE of Service: July 25, 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](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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