

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0910

Affirmed
No Disqualification

PROCEDURAL HISTORY: On June 23, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged (decision # 161349). Claimant filed a timely request for hearing. On July 20, 2017, ALJ Murdock conducted a hearing, and on July 24, 2017, issued Hearing Decision 17-UI-88750, concluding the employer discharged claimant, but not for misconduct. On July 31, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

Evidentiary matter. The ALJ marked 12 pages of documents submitted by the employer as Exhibit 1, but did not admit the exhibit into the record. Audio recording at 3:10. OAR 471-041-0090(1) (October 29, 2006) provides that “[e]xhibits offered, but not received into evidence” may be received into evidence by EAB if necessary to complete the record. Because we determine that Exhibit 1 is necessary to complete the record in this case, Exhibit 1 is hereby admitted into evidence.

The employer failed to certify that it provided a copy of its argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond the employer’s reasonable control prevented the employer from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

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-88750 is affirmed.

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

DATE of Service: August 22, 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.

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