

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0928

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On March 31, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 104754). Claimant filed a timely request for hearing. On April 13, 2017, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for April 27, 2017. On April 27, 2017, ALJ Murdock issued Hearing Decision 17-UI-82006, dismissing claimant's hearing request for failure to appear at the hearing. Claimant filed a timely request to reopen. On June 14, 2017, the OAH issued notice of a hearing scheduled for June 28, 2017. On June 28, 2017, ALJ Murdock issued Hearing Decision 17-UI-86812, dismissing claimant's hearing request for failure to appear at the hearing. Claimant filed a second timely request to reopen. On July 26, 2017, ALJ Kangas issued Hearing Decision 17-UI-88865, denying claimant's request to reopen. On August 4, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's written argument contained information that was not part of the record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from providing the information in his motions to reopen or otherwise submitting the information to the ALJ. Under OAR 471-041-0090(2) (October 29, 2006), EAB may consider new information that is not part of the record only if the party offering the information demonstrates that circumstances beyond the party's reasonable control prevented it from offering the information into the record. We therefore deny claimant's request to present new information and considered only information received into the hearing record 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-88865 is affirmed.

Susan Rossiter and D. P. Hettle;
J. S. Cromwell, 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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