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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1018

Affirmed
No Disqualification

PROCEDURAL HISTORY: On February 24, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 93639). The employer filed a timely request for hearing. On June 1, 2017, the Office of Administrative Hearings (OAH) mailed notice of hearing scheduled for June 20, 2017. On June 20, 2017, ALJ Shoemake conducted a hearing at which claimant failed to appear, and on June 23, 2017 issued Hearing Decision 17-UI-86423, concluding the employer discharged claimant for misconduct. On July 10, 2017, claimant filed an application for review with the Employment Appeals Board (EAB) and a request to reopen the June 20th hearing with OAH. On July 12, 2017, OAH mailed notice of a hearing on the reopen request scheduled for July 31, 2017. On July 31, 2017, ALJ Shoemake conducted a hearing, at which the employer failed to appear. On August 3, 2017, EAB issued Employment Appeals Board Decision 2017-EAB-0823, affirming Hearing Decision 17-UI-86423. On August 3, 2017, EAB reconsidered EAB Decision 2017-EAB-0823 on its own motion. On August 7, 2017, EAB issued Appeals Board Decision 2017-EAB-0823-R, withdrawing EAB Decision 2017-EAB-0823 and dismissing claimant's July 10, 2017 application for review without prejudice. On August 8, 2017, ALJ Shoemake issued Hearing Decision 17-UI-89819, allowing claimant's request to reopen the June 20th hearing and concluding the employer discharged claimant, but not for misconduct. On August 24, 2017, the employer filed an application for review of Hearing Decision 17-UI-89819 with EAB.

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-89819 is affirmed.

J. S. Cromwell and D. P. Hettle.

DATE of Service: September 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.

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