

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

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-1379**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On October 11, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause (decision # 95037). Claimant filed a timely request for hearing. On November 14, 2017, ALJ Janzen conducted a hearing at which the employer failed to appear, and on November 16, 2017 issued Hearing Decision 17-UI-97013, concluding that claimant had good cause to quit working for the employer. On November 28, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

In its application for review, the employer implied that it failed to appear at the November 14, 2017 hearing because its representative “was out of the office because my son was diagnosed with cancer.” We construe that implied statement as a request for an opportunity to offer new information regarding claimant’s work separation into evidence. However, OAR 471-041-0090 (October 29, 2016) states, in relevant part, that information not received into evidence at the hearing will not be considered unless the party offering the new information establishes that the information is relevant and material, and that factors or circumstances beyond the party’s reasonable control prevented the party from offering the information into evidence at the hearing.

Here, the employer did not state what new information regarding claimant’s work separation it wants to offer into evidence, and therefore failed to establish that the information is relevant and material to whether claimant should be disqualified from receiving benefits. Nor is the employer’s statement sufficient to show that its representative was the only person that could appear at the hearing on the employer’s behalf, how or why the representative’s son’s cancer diagnosis prevented the employer’s representative from appearing at the November 14, 2017 hearing and, to the extent it did prevent an appearance at the hearing, how the diagnosis prevented the employer from requesting that the hearing be postponed when it became apparent that the representative could not appear at the hearing. Absent such a showing, the employer failed to establish that the employer was prevented from offering its information into the hearing record. The employer’s request for an opportunity to offer new information regarding claimant’s work separation into evidence 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-97013 is affirmed.

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

**DATE of Service: December 4, 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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