

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1441

Affirmed
No Disqualification

PROCEDURAL HISTORY: On November 8, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 134835). Claimant filed a timely request for hearing. On December 6, 2017, ALJ Murdock conducted a hearing at which the employer failed to appear, and on December 11, 2017 issued Hearing Decision 17-UI-98741, concluding claimant left work with good cause. On December 15, 2017, the employer filed an application for review with the Employment Appeals Board (EAB).

With its application for review the employer asked for a new hearing on the grounds that he was unable to appear and present evidence on December 6th. The employer'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. In support of his request, the employer asserted that he was prevented from attending the hearing because he was on hold with the union and "didn't notice the time till it was already over." The employer did not assert or show what, if any, attempt he made to keep track of the time and participate in the hearing despite his other call, or have someone else either call into the hearing or wait on hold for him; in the absence of such evidence, the employer has failed to show that being on hold with the union was a circumstance beyond his reasonable control. The employer's request to have EAB consider new information is, therefore, 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-98741 is affirmed.

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

DATE of Service: January 18, 2018

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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.