

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0448**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On March 9, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 115117). The employer filed a timely request for hearing. On April 6, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for April 20, 2018. On April 20, 2018, ALJ Snyder conducted a hearing at which claimant failed to appear, and on April 27, 2018 issued Order No. 18-UI-108239, concluding that claimant's discharge by the employer was for misconduct. On May 1, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant submitted written argument in which he provides new information regarding his discharge by the employer. However, EAB may consider such information only if the party offering the information establishes that factors or circumstances beyond the party's reasonable control prevented it from offering the information into evidence at the hearing. *See* OAR 471-040-0090 (October 29, 2006). In his written argument, claimant asserted that he was "not allow[ed]" to participate in the April 20, 2018 hearing, but did not explain what factors or circumstances prevented him from doing so. He therefore failed to establish that factors or circumstances beyond his reasonable control prevented him from appearing at the hearing and offering his information into evidence at that time, and EAB did not consider claimant's new information when reaching this decision.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the Order under review is **adopted**.

**DECISION:** Order No. 18-UI-108239 is affirmed.

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

**DATE of Service: May 31, 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](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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