

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0464

Affirmed
Disqualification
(Descalificación)

PROCEDURAL HISTORY: On March 28, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 152313). Claimant filed a timely request for hearing. On April 26, 2018, ALJ Murdock conducted a hearing, and on April 30, 2018 issued Order No. 18-UI-108396, affirming the Department's decision. On May 2, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

EVIDENTIARY MATTER: In written argument, the employer provided EAB with new information, the text messages between claimant and the employer's scheduler from March 1 through March 3, 2018. Although the parties testified regarding the text messages, a copy of the messages was not part of the hearing record. Oregon Administrative Rule 471-041-0090 (October 29, 2006) states that information not receiving into evidence at the hearing will only be considered when the party offering the information shows that the new information is relevant and material to EAB's determination and factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at hearing.

The text messages are relevant regarding the nature of the work separation. The parties testified about the text messages, but it is difficult to discern from the record the exact sequence and wording of the text messages. The parties could not reasonably foresee that the record would be unclear regarding the text messages because the parties do not control the hearing. We therefore admit the text messages into the record as EAB Exhibit 1 under OAR 471-041-0090 (October 29, 2006). The claimant may object to our doing so, in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed fact will remain in the record at EAB Exhibit 1. EAB also considered the remainder of the employer's written argument 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**.

*EAB revisó el registro completo de la audiencia. En la revisión de novo y de acuerdo con ORS 657.275(2), se **aprueba** la Orden bajo revisión.*

DECISION: Order No. 18-UI-108396 is affirmed.
La Orden de la Audiencia 18-UI-108396 queda confirmada.

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

DATE of Service: June 4, 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.

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***NOTA:** Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.*

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