

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0527**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On April 11, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 93111). Claimant filed a timely request for hearing. On May 4, 2018, ALJ Micheletti conducted a hearing, and on May 11, 2018 issued Order No. 18-UI-109235, affirming the Department's decision. On May 22, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted an untimely written argument that EAB received by facsimile on June 14, 2018, which was not within "20 days" of the date EAB mailed the notice that it had received claimant's application for review. *See* OAR 471-041-0080 (October 29, 2006). Claimant requested an extension of the deadline to submit a written argument, stating that she misunderstood OAR 471-041-0080 to refer to "business days" rather than "days." EAB denies claimant's request for an extension of time to submit her written argument because claimant may not be excused from complying with Department rules merely because she misunderstood the rule.

Although we did not consider claimant's written argument when reaching this decision, even had EAB allowed claimant's request for an extension and considered her written argument, it would not have changed the outcome of this decision. Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing, as required under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). We therefore would have considered claimant's argument only to the extent it was based on information received into evidence at the hearing. The record does not show that claimant's workplace was hostile as claimant alleged or that she pursued the reasonable alternative of complaining about her working conditions to the owners so they could address or resolve the issues before she quit. Even though claimant believed her coworkers' relationship was "common knowledge" and felt the owners did not want to know about it, the record does not show that it would have been futile for her to address her concerns directly with one or both owners allowing them some reasonable period of time to address them.

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-109235 is affirmed.

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

**DATE of Service: June 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](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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