

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0623

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On May 7, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for an act that disqualified her from receiving benefits (decision # 95751). Claimant filed a timely request for hearing. On May 18, 2018, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for June 1, 2018. On June 1, 2018, claimant failed to appear at the hearing, and ALJ Wyatt issued Order No. 18-UI-110549, dismissing claimant’s request for hearing for failure to appear. Claimant filed a timely request to reopen the hearing. ALJ Kangas reviewed claimant’s request, and on June 11, 2018 issued Order No. 18-UI-111071, denying the request. On June 19, 2018, claimant filed an application for review of Order No. 18-UI-111071 with the Employment Appeals Board (EAB).

EAB considered the entire hearing record and claimant’s written argument, in which she asserted that her failure to record the correct date of the hearing in her calendars and reminders was a “legitimate mistake.” However, we agree with the ALJ that claimant’s mistake was not an “excusable” mistake under OAR 471-040-0040(2) (February 10, 2012), because it did not, for example, raise a due process issue, and was not the result of inadequate notice, reasonable reliance on another, or the inability to follow directions despite substantial efforts to comply.

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

DECISION: Order No. 18-UI-111071 is affirmed.

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

DATE of Service: June 27, 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.