

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0633**

*Affirmed*  
*Late Request for Hearing Dismissed*

**PROCEDURAL HISTORY:** On May 9, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for misconduct (decision # 135432). On May 29, 2018, decision # 135432 became final without the employer having filed a timely request for hearing. On June 16, 2018, the employer filed a late request for hearing. On June 20, 2018, ALJ Kangas issued Order No. 18-UI-111720, dismissing the employer's late request for hearing subject to their right to renew the request by responding to an appellant questionnaire by July 4, 2018. On June 25, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).<sup>1</sup>

Claimant and the employer failed to certify that they provided a copy of their arguments to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The arguments also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond the parties' reasonable control prevented them from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). Additionally, the information the parties provided was not relevant and material to the only issue before EAB at this time, which is whether the employer had good cause to file a late request for hearing in this case. EAB therefore did not consider either party's written argument.

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

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<sup>1</sup> The employer did not submit a response to the appellant questionnaire to EAB, or submit any information suggesting why the employer filed a late request for hearing in this case. The employer submitted only an application for review form to EAB. The employer's subsequently-filed written argument materials consisted of two letters, both of which pertained exclusively to claimant's work separation and did not include any information about the employer's late request for hearing. Department records also show that the employer did not submit a response to the appellant questionnaire to the Office of Administrative Hearings as instructed in Order No. 18-UI-111720; we take notice of that fact, which is contained in Employment Department records. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006).

**DECISION:** Order No. 18-UI-111720 is affirmed.

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

**DATE of Service:** July 13, 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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