

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0638-R**

*Affirmed on Reconsideration*  
*Disqualification*

**PROCEDURAL HISTORY:** On May 4, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 124642). Claimant filed a timely request for hearing. On June 1, 2018, ALJ Shoemake conducted a hearing, and on June 7, 2018 issued Order No. 18-UI-110887, affirming the Department's decision. On June 18, 2018, claimant filed an application for review with the Employment Appeals Board (EAB). On July 12, 2018, EAB issued Appeals Board Decision 2018-EAB-0638-R, affirming Order No. 18-UI-110887. On July 18, 2018, claimant timely filed a written argument with EAB.

ORS 657.290(3) provides that EAB may, in its discretion, reconsider its previous decisions and issue a new decision as "necessary and appropriate for the correction of previous error of fact or law." OAR 471-040-0145(1) also provides that parties "may request reconsideration to correct an error of material fact or law," among other things. In this case, claimant had until July 18, 2018 to file a timely written argument for EAB's consideration, and did, in fact, file a timely written argument. *See* OAR 471-041-0075; OAR 471-041-0080(1). EAB erred in reaching a decision in this matter before the written argument deadline had expired. This decision is therefore, issued pursuant to EAB's authority under ORS 657.290(3) and OAR 471-041-0145(1) to correct EAB's error, and to reconsider EAB's decision in this case in light of claimant's written argument.

In so doing, however, we note that claimant's written argument contained new information about his family's circumstances that he did not make part of the hearing record in this case. Although under limited circumstances EAB may consider a party's new information, claimant failed to show that factors or circumstances beyond his reasonable control prevented him from offering the information during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we therefore were unable to consider claimant's new information, and considered his arguments only to the extent they were based upon information that had already been received into evidence at the hearing when reaching this decision.

For the reasons explained in EAB Decision 2018-EAB-0638, and after having reconsidered that decision in light of claimant's written arguments, claimant did not prove that it was more likely than not that he

quit work with good cause. Claimant is therefore disqualified from receiving unemployment insurance benefits until he requalifies for benefits under Employment Department law.

**DECISION:** On reconsideration, EAB Decision 2018-EAB-0638 is **adopted** as modified herein, and Order No. 18-UI-110887 is reaffirmed.

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

**DATE of Service: July 26, 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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