

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0794

Affirmed
No Disqualification

PROCEDURAL HISTORY: On June 5, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant, but not for a disqualifying act (decision # 161336). The employer filed a timely request for hearing. On July 17, 2018, ALJ Snyder conducted a hearing, and on July 25, 2018 issued Order No. 18-UI-113811, affirming the Department's decision. On August 14, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer submitted written argument to EAB. In its written argument, the employer asserted that claimant was discharged for violating a last chance agreement. EAB agrees with the ALJ that the preponderance of the evidence in the record fails to show that claimant violated the last chance agreement by failing to attend a scheduled appointment, as asserted by the employer. Absent such a showing, the employer has failed to meet its burden to show that it discharged claimant for a disqualifying act under the Department's drug laws.

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

DECISION: Order No. 18-UI-113811 is affirmed.

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

DATE of Service: September 14, 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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