

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0896

Affirmed
No Disqualification

PROCEDURAL HISTORY: On July 18, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 75742). Claimant filed a timely request for hearing. On August 24, 2018, ALJ R. Frank conducted a hearing, and on August 27, 2018 issued Order No. 18-UI-115597, concluding claimant's discharge was not for misconduct. On September 14, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer failed to certify that they provided a copy of their argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The employer's argument also contained information that was not part of the hearing record, and failed to show that the general manager's inability to recall at the hearing what the employer's policy stated amounted to a factor or circumstance beyond the employer's reasonable control that prevented them from offering the information as required by OAR 471-041-0090 (October 29, 2006). We therefore considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

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-115597 is affirmed.

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

DATE of Service: October 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. 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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