

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0952

Affirmed
Disqualification

PROCEDURAL HISTORY: On December 14, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged, not for misconduct (decision # 71630). On June 11, 2018, decision # 71630 became final without the employer having filed a request for hearing. On August 3, 2018, the employer filed a late request for hearing. On August 8, 2018, ALJ Kangas issued Order No. 18-UI-114612, dismissing the employer's request for hearing as untimely without a showing of good cause, subject to its right to renew the requests by responding to an appellant questionnaire by August 22, 2018. The employer filed a timely response to the appellant questionnaire. On August 22, 2018, the Office of Administrative Hearings (OAH) mailed a letter to the parties stating Order No. 18-UI-114612 was vacated. On August 24, 2018, OAH served notice of a hearing scheduled for September 7, 2018. On September 7, 2018, ALJ Janzen conducted a hearing at which claimant failed to appear, and on September 10, 2018, issued Order No. 18-UI-116279, concluding claimant's discharged was for misconduct. On October 1, 2018, claimant filed an application for review of Hearing Decision 18-UI-116279 with the Employment Appeals Board (EAB).

In written argument, claimant asked EAB to consider new information regarding her work separation from the employer. EAB may consider new information that is not part of the record if the information is relevant and material to EAB's determination, and the party offering the information demonstrates that circumstances beyond the party's reasonable control prevented her from offering the information into evidence at the hearing. OAR 471-040-0090 (October 29, 2006). Claimant asserted in her application for review that she was unaware of the September 7, 2018, because she is no longer residing at the address of record with the Oregon Employment Department. However, claimant also asserted that that address continues to be her mailing address. Claimant failed to explain why she failed to check her mail in a timely manner and offer her information at the September 7, 2018 hearing. Because claimant failed to show that factors or circumstances beyond her reasonable control prevented her from offering her information into evidence at the hearing, her request for EAB to consider new information is denied.

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

DECISION: Order No. 18-UI-116279 is affirmed.

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

DATE of Service: October 30, 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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