

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0029

Affirmed
Overpayment

PROCEDURAL HISTORY: On February 1, 2013, October 25, 2013, the Oregon Employment Department (the Department) served notice of decision #121934 concluding that claimant was not available for work for the period from October 28, 2012, through January 26, 2013. On February 21, 2013, decision #121934 became final without a request for hearing having been filed. On October 25, 2013, the Department served notice of administrative decision #93855, assessing a \$4,004 overpayment based on decision #121934. On October 29, 2013, claimant filed a telephone request for hearing. On November 22, 2013, the Office of Administrative Hearings (OAH) issued two notices for two hearings scheduled for December 12, 2013, one at 8:15 a.m. and another at 9:30 a.m. On December 12, 2013, ALJ Vincent conducted a hearing at which claimant appeared and testified, and on December 31, 2013, issued Hearing Decision 13-UI-07422, affirming decision # 93855. On December 30, 2013, ALJ Vincent issued Hearing Decision 13-UI-07286, dismissing claimant's request for a hearing with respect to decision #121934 for failure to appear at the 8:15 a.m. hearing. Claimant filed a timely motion to reopen the hearing on decision #12194, and further proceedings are pending with the OAH.¹ On January 2, 2014, claimant filed an application for review of Hearing Decision 13-UI-07422 with the Employment Appeals Board (EAB).

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

DECISION: Hearing Decision 13-UI-07422 is affirmed.

¹ We take official notice of the following documents contained in OAH's case files: administrative decision #121934, Hearing Decision 13-UI-07286, and claimant's motion to reopen. Any party that objects to our doing so must submit such an objection to this office in writing, setting forth the basis of the objection, within 10 days of the date on which this decision is mailed. OAR 471-041-0090(3) (October 29, 2006). Unless such an objection is received and sustained, the noticed facts will remain part of the record.

Susan Rossiter and Tony Corcoran;
D. E. Larson, not participating.

DATE of Service: January 24, 2014

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 website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.