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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0175

Hearing Decision 14-UI-07607 Affirmed, Overpayment, No Penalties
Hearing Decision 14-UI-07608 Affirmed, Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On July 25, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 124724). On August 14, 2013, decision # 124724 became final without a request for hearing having been filed. On October 1, 2013, the Department served notice of a decision assessing a \$11,588 overpayment, \$1738.20 monetary penalty and 52 penalty weeks (decision # 200768). On October 7, 2013, claimant filed a request for hearing on the decisions by mail. On December 18, 2013, ALJ Frank conducted a consolidated hearing on the administrative decisions, and on January 3, 2014 issued Hearing Decision 14-UI-07608, concluding claimant's October 7, 2013 request for hearing on decision # 124724 was untimely, that she failed to demonstrate good cause for the untimely hearing request and affirming decision # 124724, and Hearing Decision 14-UI-07607, modifying decision # 200768 by reducing the overpayment to \$11,344 and eliminating the monetary penalty and penalty weeks. On January 22, 2013, claimant filed applications for review of Hearing Decisions 14-UI-07607 and 14-UI-07608 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-07607 and 14-UI-07608. For case-tracking purposes, this decision is being issued in duplicate (Appeals Board Decisions 2014-EAB-0176 and 2014-EAB-0175).

No adversely affected party requested review of that portion of Hearing Decision 14-UI-07607 concluding that claimant was not overpaid benefits for the week including September 9 through 15, 2012 (week 37-12) and was not subject to a disqualification penalty of 52 weeks or a financial penalty of \$1738.20. We therefore confined our review of Hearing Decision 14-UI-07607 to the issue of whether claimant was overpaid benefits in the amount \$11,344.

Claimant's written argument contained information that was not part of the hearing record. In accordance with ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered claimant's argument only to the extent it was based on information received into evidence at the hearing.

EAB reviewed the entire hearing record of each decision. We agree with the ALJ that the record in 14-UI-07608 fails to show that claimant had good cause for the late filing of her hearing request regarding decision # 124724 and that the hearing request should be dismissed. We also agree with the ALJ that the record in 14-UI-07607 shows that claimant was overpaid benefits in the amount of \$11,344 as a matter of law based on the finality of decision # 124724.

On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 14-UI-07607 and 14-UI-07608 are affirmed.

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

DATE of Service: March 13, 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.