

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0291

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On June 11, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 125715). On July 1, 2013, decision # 125715 became final without a request for hearing having been filed. On October 7, 2013, the Department served notice of an administrative decision (decision # 85216), assessing a \$1,160 overpayment based on decision # 125715. Claimant filed a request for hearing. On November 15, 2013, the Office of Administrative Hearings (OAH) issued two notices of two hearings scheduled for December 10, 2013, one at 8:15 a.m. and one at 9:30 a.m.

On December 10, 2013, ALJ Seideman conducted a hearing with respect to decision # 85216, which claimant appeared and testified, and on December 16, 2013, issued Hearing Decision 13-UI-06645, affirming decision # 85216. Also on December 16, 2013, ALJ Seideman issued Hearing Decision 13-UI-06643, dismissing claimant's request for hearing with respect to decision # 125715 for failure to appear. On December 31, 2013, claimant filed a request to reopen Hearing Decision 13-UI-06643¹ and an application for review of Hearing Decision 13-UI-06645 with the Employment Appeals Board (EAB).

On January 24, 2014, EAB issued Appeals Board Decision 2014-EAB-0007, affirming Hearing Decision 13-UI-06645.

ALJ Kangas reviewed claimant's request to reopen and on January 30, 2014, issued Hearing Decision 14-UI-09461, denying claimant's request. On February 18, 2014, claimant filed an application for review on Hearing Decision 14-UI-09461 with the EAB.

¹ EAB received claimant's request to reopen Hearing Decision 13-UI-06643, along with the application for review of Hearing Decision 13-UI-06645. EAB forwarded the request to reopen Hearing Decision 13-UI-06643 to OAH for further proceedings. OAR 471-040-0040(6).

In claimant's written argument, claimant included information that was not part of the record before the ALJ. Claimant failed to certify that a copy of the written argument was provided to the other parties as required. Under ORS 657.275 (2), OAR 471-041-0080 (October 29, 2006), and OAR 471-041-0090 (October 29, 2006), we did not consider claimant's written argument when reaching this decision. Even if we had, the outcome of this decision would remain the same.

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 14-UI-09461 is affirmed.

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

DATE of Service: February 25, 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.