

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0478

Affirmed
Disqualification
Overpayment

PROCEDURAL HISTORY: On November 17, 2009, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause from Corporate Express Office Products (decision # 141942). On December 4, 2009, the Department served notice of an administrative decision concluding the employer (AGG Enterprises Inc.) discharged claimant for committing a disqualifying act (decision # 103619). On December 7, 2009, decision # 141942 became final without a request for hearing having been filed. On December 24, 2009, decision # 103619 became final without a request for hearing having been filed. On April 14, 2010, the Department served notice of an administrative decision assessing a \$13,325 overpayment in Emergency Unemployment Compensation (EUC) and Federal Additional Compensation (FAC), \$1,998.75 in monetary penalties and 52 penalty weeks based on decisions # 141942 and # 103619. On May 4, 2010, the overpayment decision became final without a request for hearing.

On October 1, 2013, claimant filed a late request for hearing with respect to decision # 103619 and the overpayment decision.¹ On October 31, 2013, ALJ Kangas issued Hearing Decision 13-UI-03726, and on November 1, 2013, issued Hearing Decision 13-UI-03783, both decisions dismissing claimant's request for hearing as untimely, subject to claimant's "right to renew" the request by submitting a response to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decision was mailed.² On November 18, 2013, the Office of Administrative Hearings (OAH) received

¹ Claimant did not request a hearing on decision # 141942.

² Hearing Decision 13-UI-03726, and Hearing Decision 13-UI-03783.

claimant's response. On November 26, 2014, OAH issued two letters entitled, "Cancellation of Hearing Decision," with respect to decisions # 103619 and the overpayment decision. On February 13, 2014, OAH issued two notices of two hearings scheduled for March 5, 2014, one at 9:30 a.m. and one at 10:45 a.m. On March 5, 2014, ALJ Clink conducted a hearing at which claimant appeared by letter of appearance, and on March 14, 2014, issued Hearing Decision 14-UI-12581, allowing claimant's late request for hearing but affirming decision # 103619; and on March 17, 2014, issued Hearing Decision 14-UI-12594, allowing claimant's late request for hearing but affirming the overpayment decision. On March 25, 2014, claimant filed applications for review of Hearing Decisions 14-UI-12581 and 14-UI-12594 and with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decision 13-UI-03726, and on November 1, 2013, issued Hearing Decision 13-UI-03783. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-0477 and 2014-EAB-0478).

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

DECISION: Hearing Decisions 14-UI-12581 and 14-UI-12594 are affirmed.

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

DATE of Service: March 31, 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.