

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0622

*Application for Review of Hearing Decision 13-UI-03392 Dismissed
Hearing Decision 14-UI-14893 Affirmed
Overpayment, No Penalties*

PROCEDURAL HISTORY: On August 13, 2013, the Oregon Employment Department (Department) served notice of an administrative decision concluding that the employer discharged claimant but not for misconduct (decision #92505). The employer filed a timely request for hearing. On October 21, 2013, ALJ Sime conducted a hearing, and on October 28, 2013, issued Hearing Decision 13-UI-03392, concluding that claimant voluntarily left work without good cause. On November 18, 2013, Hearing Decision 13-UI-03392 became final without an application for review having been filed.

On March 7, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 164746) assessing a \$2,928 overpayment in Emergency Unemployment Insurance Benefits (EUC) based on Hearing Decision 13-UI-03392. Claimant filed a timely request for hearing. On April 10, 2014, ALJ Wyatt conducted a hearing, and on April 11, 2014, issued Hearing Decision 14-UI-14893, affirming decision #16746.

On April 15, 2014, claimant filed an application for review of Hearing Decisions 13-UI-03392 and 14-UI-14893.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 13-UI-03392 and 14-UI-14893. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB- 0622 and 2014-EAB- 0621).

Hearing Decision 13-UI-03392. ORS 657.270(4) required claimant's application for review to be filed no later than November 18, 2013; it was filed on April 15, 2014, as shown by the receipt date stamped on the fax transmission. OAR 471-041-0065 (1)(c) (October 29, 2006). OAR 471-041-0070(3) requires that individuals filing late applications for review include with the late application "a written statement describing the circumstances that prevented a timely filing." Claimant provided no explanation as to

why he filed his application for review of Hearing Decision 13-UI-03392 almost five months after the filing deadline expired.

Because the application for review of Hearing Decision 13-UI-03392 was filed after the 20-day deadline provided by ORS 657.270(4), and good cause to extend the time allowed has not been shown, the application for review must be dismissed.

Hearing Decision 14-UI-14893. EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 14-UI-14893 is **adopted**.

DECISION: The application for review of Hearing Decision 13-UI-03392 is dismissed. Hearing Decision 14-UI-14893 is affirmed.

Susan Rossiter and Tony Corcoran;
D. E. Larson and J.S. Cromwell, *pro tempore*, not participating.

DATE of Service: May 5, 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.