

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0698

*Application for Review Dismissed – Nonjusticiable
Request to Backdate Denied*

PROCEDURAL HISTORY: On March 10, 2014, the Oregon Employment Department (the Department) served notice of two administrative decisions; one concluding claimant was not available for work from February 2, 2014 to March 1, 2014 (decision # 91728), and one denying claimant's request to backdate a claim (decision # 92853). Claimant filed a timely request for hearing. On April 22, 2014, ALJ Kirkwood conducted a consolidated hearing, and on April 24, 2014 issued Hearing Decision 14-UI-15959 concluding that claimant was available for work from February 2, 2014 to March 1, 2014, and Hearing Decision 14-UI-15900 denying claimant's request to backdate his claim. On April 29, 2014, claimant filed applications for review with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-15959 and 14-UI-15900. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 14-EAB-0697 and 14-EAB-0698).

FINDINGS OF FACT: The outcome of Hearing Decision 14-UI-15959, the first hearing decision under review, concluding that claimant was available for work from February 2, 2014 to March 1, 2014, was favorable to the claimant.

CONCLUSIONS AND REASONS: We find that the application for review of Hearing Decision 14-UI-15959 presents no justiciable controversy and should, therefore, be dismissed.

Upon our review of the record in this case, we found no portion of this hearing decision that was adverse to claimant or that had any practical effect on claimant's rights or interests. Claimant has not assigned error to any portion of this decision and has not requested reversal of any part of this decision.

In consideration of our obligation to issue decisions that are consistent with sound principles governing judicial review and address only existing controversies between parties, we decline to address matters that will have no practical effect on the rights of the parties to the controversy. *See Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995); *Brumnett v. PSRB*, 315 Or 402, 848 P2d 1194 (1992).

Because the case before us presents no justiciable controversy, the application for review of Hearing Decision 14-UI-15959 is dismissed.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 14-UI-15900 under review is **adopted**.

DECISION: The application for review filed of Hearing Decision 14-UI-15959 on April 29, 2014 is dismissed. Hearing Decision 14-UI-15959 remains undisturbed. Hearing Decision 14-UI-15900 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.