

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0757

*Affirmed
Overpayment*

PROCEDURAL HISTORY: On June 23, 2011, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 122319). On July 13, 2011, decision # 122319 became final without a request for hearing having been filed. On February 17, 2012, the Department served notice of an administrative decision assessing a \$1,212 overpayment based on decision # 122319. On March 8, 2012, the overpayment decision became final without a request for hearing having been filed.

On July 17, 2013, claimant filed an untimely request for hearing on decision # 122319. On August 6, 2013, ALJ Kangas issued Hearing Decision 13-UI-00169, dismissing claimant's request for hearing on decision #12319 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.¹ On October 30, 2013, the Office of Administrative Hearings (OAH) received claimant's response regarding Hearing Decision 13-UI-00169.²

On October 9, 2013, claimant filed an untimely request for hearing on the overpayment decision. On November 6, 2014, ALJ Kangas issued Hearing Decision 13-UI-04091, dismissing claimant's request for hearing on the overpayment 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.³ On November 13, 2013, OAH received claimant's response. On November 26, 2013, OAH issued a letter entitled, "Cancellation of Hearing Decision." On January 31, 2014, OAH issued notice of a hearing scheduled for February 25, 2014, at 10:45 a.m. On February 25,

¹ Hearing Decision 13-UI-00169.

² The record is unclear as to what action, if any, OAH took in regard to the "Appellant Questionnaire."

³ Hearing Decision 13-UI-04091.

2014, ALJ Lohr conducted a hearing at which claimant appeared and testified, and on April 18, 2014, issued Hearing Decision 14-UI-15607, re-dismissing claimant's request for hearing as untimely. On May 2, 2014, claimant filed an application for review of Hearing Decision 14-UI-15607 with the Employment Appeals Board (EAB).

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-15607 is affirmed.

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

DATE of Service: May 20, 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.