

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0813

Affirmed
Overpayment

PROCEDURAL HISTORY: On August 4, 2011, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from April 3, 2011 to July 30, 2011 (decision # 151814). Claimant filed a timely request for hearing. On August 19, 2011, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for August 31, 2011. On August 31, 2011, ALJ Stetz-Waters issued Hearing Decision 11-UIB-21122-D, dismissing claimant's request for hearing for failure to appear. On September 3, 2011, claimant filed a request to reopen the hearing. On September 23, 2011, ALJ S. Lee reviewed claimant's request to reopen and issued Hearing Decision 11-UIB-22869, denying claimant's request. On September 27, 2011, claimant filed an application for review with the Employment Appeals Board (EAB). On October 5, 2011, EAB issued Appeals Board decision 11-AB-2874, affirming Hearing Decision 11-UIB-22869. On November 4, 2011, Appeals Board Decision 11-AB-2874 became final without a Petition for Judicial Review having been filed.

On March 14, 2014, the Department served notice of an administrative decision (decision # 164555) assessing a \$5,406 overpayment in Emergency Unemployment Compensation (EUC) based on Appeals Board Decision 11-AB-2874. Claimant filed a timely request for hearing. On April 25, 2014, ALJ Wyatt conducted a hearing, and on April 28, 2014, issued Hearing Decision 14-UI-16219, affirming the Department's decision. On May 9, 2014, claimant filed an application for review with EAB.

EAB considered claimant's written argument to the extent it was based on the hearing record.

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-16219 is affirmed.

Susan Rossiter and Tony Corcoran;
D. E. Larson and J. S. Cromwell, *pro tempore*, 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.