

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1051

Affirmed
Late Response Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On December 7, 2009, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from September 27, 2009 through October 17, 2009, from November 1, 2009 through November 14, 2009, and from November 22, 2009 through November 28, 2009 (decision # 142415). On December 28, 2009, decision # 142415 became final without a request for hearing having been filed. On August 12, 2010, the Department served notice of an administrative decision assessing a \$2,136 overpayment based on decision # 142415. On March 21, 2014, claimant filed a late request for hearing on decision # 142415. On March 31, 2014, claimant filed a late request for hearing on the August 12, 2010 overpayment decision.

On April 9, 2014, ALJ Kangas issued Hearing Decision 14-UI-14631 dismissing claimant's request for hearing on the overpayment decision 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 April 23, 2014, the deadline for filing a response to Hearing Decision 14-UI-14631 expired. On April 28, 2014, claimant filed a late response to Hearing Decision 14-UI-14631. On May 23, 2014, ALJ Kangas issued claimant a letter in regard to Hearing Decision 14-UI-14631 that claimant's response was late and would not be considered.

On April 16, 2014, ALJ Kangas issued Hearing Decision 14-UI-15296 dismissing claimant's request for hearing on decision # 142415 as untimely, subject to claimant's "right to renew" the request by

¹ Hearing Decision 14-UI-16434.

submitting a response to the “Appellant Questionnaire” attached to the hearing decision within 14 days of the date the decision was mailed.²

On April 28, 2014, the Office of Administrative Hearings (OAH) received a response to Hearing Decision 14-UI-15296. On May 28, 2014, ALJ Kangas issued Hearing Decision 14-UI-18518 re-dismissing claimant’s March 21, 2014 request for hearing as untimely and leaving the Department’s December 7, 2009 decision # 142415 undisturbed. On June 17, 2014, claimant filed applications for review with the Employment Appeals Board (EAB).

EAB considered claimant’s written argument to the extent it was relevant and based on the hearing records.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-14631 and 14-UI-18518. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-1050 and 2014-EAB-1051).

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

DECISION: Hearing Decisions 14-UI-14631 and 14-UI-18518 are affirmed.

Susan Rossiter and Tony Corcoran;
J. S. Cromwell, not participating.

DATE of Service: June 26, 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 court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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² Hearing Decision 14-UI-15295.