

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1078

Affirmed
Late Response Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On March 28, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not actively seeking work from March 2, 2014 to March 15, 2014 (decision # 81821). On April 17, 2014, decision # 81821 became final without a request for hearing having been filed. On April 18, 2014, claimant filed a late request for hearing. On April 22, 2014, the Department served notice of an administrative decision assessing a \$1,076 overpayment (decision # 91932) based on decision # 81821. Claimant filed a timely request for hearing on decision # 91932.

On April 30, 2014, ALJ Kangas issued Hearing Decision 14-UI-16434 dismissing claimant's request for hearing on administrative decision # 81821 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 May 14, 2014, the deadline for filing a response to Hearing Decision 14-UI-16434 expired. On May 20, 2014, claimant filed a late response to Hearing Decision 14-UI-16434. On June 5, 2014, ALJ Kangas issued claimant a letter in regard to Hearing Decision 14-UI-16434, stating that claimant's response was late and would not be considered.

On June 3, 2014, ALJ Clink conducted a hearing, and on June 9, 2014 issued Hearing Decision 14-UI-19247, affirming the Department's overpayment decision. On June 30, 2014, claimant filed an application 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.

¹ Hearing Decision 14-UI-16434

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-16434 and 14-UI-19247. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2014-EAB-1077 and 2014-EAB-1078).

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 Decisions 14-UI-16434 and 14-UI-19247 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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