

## EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1097

*Affirmed*  
*Overpayment*

**PROCEDURAL HISTORY:** On August 16, 2011, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 73350) concluding claimant was unavailable for work from July 24, 2011 through August 13, 2011 (week 30-11 through week 32-11). Claimant filed a timely request for hearing. On September 13, 2011, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for September 21, 2011. On September 21, 2011, ALJ Wyatt issued Hearing Decision 11-UIB-22615, dismissing claimant's request for hearing for failure to appear. On October 11, 2011, Hearing Decision 11-UIB-22615 became final without a request to reopen or an application for review having been filed.

On January 14, 2014, the Department served notice of an administrative decision (decision # 143037) assessing a \$348 overpayment based on August 16, 2011 decision. On February 3, 2014, decision # 143037 became final without a request for hearing having been filed. On March 26, 2014, claimant filed an untimely request for hearing on decision # 143037. On April 7, 2014, ALJ Kangas issued Hearing Decision 14-UI-14451, dismissing claimant's request for hearing 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.<sup>1</sup> On April 11, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On May 13, 2014, OAH issued a letter entitled, "Cancellation of Hearing Decision." On May 29, 2014, OAH issued notice of a hearing scheduled for June 12, 2014 at 2:30 p.m.

On June 12, 2014, ALJ Triana conducted a hearing in which claimant appeared and testified, and on June 18, 2014 issued Hearing Decision 14-UI-19877, allowing claimant's late request for hearing, but affirming decision # 143037. On June 23, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

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<sup>1</sup> Hearing Decision 14-UI-14451.

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-19877 is affirmed.

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

**DATE of Service:** July 14, 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](http://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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