

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1249-R

Request for Reconsideration Denied

PROCEDURAL HISTORY: On June 4, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$2,919.00 overpayment, a \$437.85 monetary penalty and 28 penalty weeks (Decision # 195151). On June 24, 2013, the Oregon Employment Department (the Department) served notice of an amended administrative decision cancelling decision # 195151 and assessing a \$433 overpayment, a \$64.95 monetary penalty and 8 penalty weeks (Decision # 200657). Claimant filed a timely request for hearing. On July 1, 2014, ALJ M. Davis conducted a hearing, and on July 2, 2014, issued Hearing Decisions 14-UI-20717, modifying decision # 200657 to eliminate the monetary penalty and penalty weeks. On July 22, 2014, claimant filed an application for review with the Employment Appeals Board (EAB). On September 3, 2014, EAB issued Appeals Board Decision 2014-EAB-1249, affirming Hearing Decision 14-UI-20717.

On September 23, 2014, claimant submitted a letter to EAB in which she asked that EAB “[p]lease review” Appeals Board Decision 2014-EAB-1249. Claimant’s request is treated as a request to have EAB reconsider this decision.

CONCLUSIONS AND REASONS: Claimant’s request for reconsideration is denied.

Under OAR 471-041-0145(1) (October 29, 2006), provides, in relevant part, that a party may request reconsideration of an EAB decision “to correct an error of material fact or law.” In her September 23 letter, claimant asserted that “I did not underreport earnings. My paystub dates corresponded with the dates on schedule of adjustments. Something is not correct.”

In Hearing Decision 14-UI-20717, the ALJ concluded that claimant did not accurately report her earnings for the following weeks for which she claimed and was paid unemployment insurance benefits: October 21-November 3, 2012 (weeks 42-12 and 43-12); November 25 through December 1, 2012 (week 48-12); January 6 through 12, 2013 (week 02-13); and January 27 through February 2, 2013 (week 05-13). As a result of her failure to accurately report her earnings, claimant was overpaid \$433 in benefits during the weeks at issue. (Exhibit 1). The ALJ’s conclusion was based on earnings information received from claimant’s employer (Exhibit 1) and pay stubs provided by the claimant

(Exhibit 2). Claimant provided no paystubs for period October 21 through November 3, 2012 (weeks 42-12 and 43-12). (Exhibit 2). The paystubs she provided for all other weeks at issue show that claimant's gross earnings for each week are identical to the earnings the employer reported to the Department. (Exhibits 1 & 2). Accordingly, claimant failed to demonstrate that EAB made any error of fact or law in Appeals Board Decision 2014-EAB-1249 that requires correction.

DECISION: Claimant's request for reconsideration is denied. Appeals Board Decision 2014-EAB-1249 remains undisturbed.

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

DATE of Service: October 2, 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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