

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1732-R

Request for Reconsideration Denied

PROCEDURAL HISTORY: On August 5, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 113104) concluding claimant voluntarily left work without good cause. On August 25, 2014, decision # 113104 became final without a request for hearing having been filed. On September 4, 2014, the Department served notice of an administrative decision (decision # 112858) assessing a \$3,705 overpayment based on decision # 113104. On September 8, 2014, claimant filed an untimely request for hearing on decision # 113104 and a timely request for hearing on decision # 112858. On October 14, 2014, ALJ Kirkwood conducted two hearings and issued two hearing decisions. Hearing Decision 14-UI-26872 dismissed claimant's late request for hearing on decision # 113104. Hearing Decision 14-UI-26871 affirmed the Department's overpayment decision # 112858. On November 3, 2014, claimant filed two applications for review with the Employment Appeals Board (EAB).

On November 12, 2014, the EAB issued Appeals Board Decisions 2014-EAB-1731 and 2014-EAB-1732, in which it affirmed the hearing decisions under review. On November 20, 2014, claimant submitted written argument. Under the authority granted to us by ORS 657.290(3), we will reconsider Appeals Board Decisions 2014-EAB-1731 and 2014-EAB-1732 to consider claimant's written argument. We have consolidated our reconsideration of these decisions, and, for case-tracking purposes, issued this decision in duplicate (2014-EAB-1731-R and 2014-EAB-1732-R).

CONCLUSION AND REASONS: Claimant's request for reconsideration is denied.

In her written argument, claimant did not dispute the following findings of fact the ALJ made in Hearing Decisions 14-UI-26871 and 14-UI-26871: that for five months (from October 2013 through March 2014), she was on the Clackamas Educational Service District's (ESD) on-call substitute educational assistant list; that from March 9 through June 7, 2014, she received a total of \$3,705 in unemployment insurance benefits; and that on March 14, 2014, she asked that her name be removed from the on-call substitute list. In her written argument, claimant contended that the ALJ erred in concluding that she was overpaid \$3,705 in unemployment insurance benefits. Claimant asserted that because she worked so infrequently and earned so little as an on-call substitute, she would have received unemployment

benefits “whether or not I had stayed on the company’s [Clackamas ESD’s] call list.” (Claimant’s Written Argument, p. 1). We disagree.

Although claimant may have originally been entitled to receive unemployment insurance benefits because she earned so little working for the Clackamas ESD, she became disqualified from receiving those benefits on March 14, 2014, when she left work without good cause by removing her name from the on-call substitute list. The conclusion that claimant voluntarily quit her job without good cause was made by the Department in decision #113104. That decision became final as a matter of law because claimant failed to timely request a hearing, and the decision remained undisturbed after the ALJ dismissed claimant’s late request for a hearing (Hearing Decision 14-UI-26872). Thus, claimant is incorrect in asserting that she was entitled to receive benefits after she removed her name from the on-call substitute list.

Under OAR 471-041-0145(1) (October 29, 2006), a party may request that EAB reconsider a decision to correct an error of fact or law, or to explain any unexplained inconsistency with a Department rule or practice, or an officially stated Department position. For the reasons discussed above, claimant failed to demonstrate that EAB made any error of fact or law in Appeals Board Decisions 2014-EAB-1731 and 2014-EAB-1732.

DECISION: Claimant’s request for reconsideration is denied. EAB Decisions 2014-EAB-1731 and 2014-EAB-1732 remain undisturbed.

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

DATE of Service: November 25, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.