

**EMPLOYMENT APPEALS BOARD DECISION**  
**2014-EAB-1754-R**

*Request for Reconsideration Denied*

**PROCEDURAL HISTORY:** On September 17, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 92908). Claimant filed a timely request for hearing. On October 23, 2014, ALJ Clink conducted a hearing, and on October 29, 2014 issued Hearing Decision 14-UI-27775, affirming the Department's decision.

On November 11, 2014, claimant submitted a letter to the Employment Appeals Board (EAB) and the Department in which he stated that he believed that he had requalified for unemployment insurance benefits in October 2013. He asked that receipt of his letter be acknowledged, and that his benefits be revised "to reflect this correction." EAB considered claimant's November 11 letter to be an application for review of Hearing Decision 14-UI-27775, and acknowledged receipt of the application to review in a November 12, 2014 letter to claimant and the employer.

On November 18, 2014, claimant submitted written argument to EAB. On November 19, 2014, EAB issued Appeals Board Decision 2014-EAB-1754, affirming the hearing decision under review.

On December 2, 2014, claimant filed a request for reconsideration of Board Decision 2014-EAB-1754" from claimant.

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

Under OAR 471-041-0145(1) (October 29, 2006), a party may request reconsideration of an EAB 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. In his December 2 request for reconsideration, claimant asserted that EAB erred in considering his November 10, 2014 letter as an

application for review. Claimant stated that “I did not submit an Application for Review form to EAB and did **not** intend my letter of November 10 to be an official request for a review of Judge Clink’s order [Hearing Decision 14-UI-27775].” (Emphasis in original.) OAR 471-041-0060(1) (January 8, 2008) provides that use of a specific form is not required to file an application for review, “provided the party requests review of a specific hearing decision or otherwise expresses intent to appeal a specific hearing decision.” EAB correctly concluded that claimant intended to file an application for review of Hearing Decision 14-UI-27775. On November 12, 2014, EAB sent a letter to claimant in which it identified his letter as an application for review and acknowledged its receipt; claimant never contacted EAB to explain that he had not intended to file an application for review. To the contrary, claimant submitted a November 18, 2014 “written argument that supports my request for review” of the ALJ’s decision. Accordingly, based on this correspondence, EAB did not err in considering claimant’s November 11, 2014 letter as an application for review.

Claimant also asserted in his request for reconsideration that EAB erred in failing to consider his November 18, 2014 argument because claimant had not provided a copy of the argument to the other parties, as required by OAR 471-041-0080(2)(a) (October 29, 2006). We agree that this was an error; we mistakenly failed to note claimant’s statement that he sent a copy of his November 18 argument to the employer. Accordingly, we now consider the issues raised in claimant’s argument.

Claimant contended that the ALJ erred in finding that layoffs by the employer were “likely.” (Hearing Decision 14-UI-27775, Finding of Fact 2). According to claimant, he gave “extensive testimony” that he was present at meetings at which “the certainty of staff layoffs was discussed.” (November 18 written argument). In addition, claimant asserted that the ALJ mistakenly concluded that the employer needed claimant’s services through October 18, 2013. (*Id.*, Finding of Fact 4). Claimant argued that his employment ended in June 2013, when the employer eliminated his position, and that his only subsequent work for the employer was as a temporary employee, for one week in July 2013 and two weeks in October 2013.

Based on our review of the evidence in the record, we hold that the ALJ did not err in making the findings of fact with which the claimant disagrees. Accordingly, claimant failed to demonstrate that by affirming Hearing Decision 14-UI-27775, EAB made an error of fact or law that would require reconsideration.

**DECISION:** Claimant’s request for reconsideration is denied. Appeals Board Decision 2014-EAB-1754 and Hearing Decision 14-UI-27775 remains undisturbed.

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

**DATE of Service: December 10, 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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