

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-1878

Affirmed
Request to Reopen Denied
Overpayment and Penalties

PROCEDURAL HISTORY: On March 7, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$1,909 overpayment, \$286.35 in monetary penalties, and 15 penalty weeks (decision # 194088). Claimant filed a timely request for hearing. On April 16, 2014, the Office of Administrative Hearings (OAH) issued a notice of hearing scheduled for April 30, 2014, at 1:30 p.m. Claimant did not appear at the hearing. On April 30, 2014, ALJ Wipperman issued Hearing Decision 14-UI-16452, dismissing claimant's request for hearing for failure to appear.

On October 2, 2014, the OAH issued a letter to claimant informing her that it had received her invalid request for reopening from the Department and providing her with instructions on filing a valid reopen request. On November 14, 2014, claimant filed an untimely request to reopen the hearing. On November 24, 2014, ALJ Kangas reviewed claimant's request to reopen and issued Hearing Decision 14-UI-29219, denying claimant's request to reopen her hearing. On December 9, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her written argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented her from attending the hearing and offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence in the hearing record when reaching this decision. *See* ORS 657.275(2).

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-29219 is affirmed. Hearing Decision 14-UI-16452 remains undisturbed.

DATE of Service: December 12, 2014

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

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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