

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0667-R

Request for Reconsideration Dismissed

PROCEDURAL HISTORY: On November 8, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision assessing a \$14,695 overpayment, \$2,204.25 in monetary penalties and 52 penalty weeks based on unreported work and earnings (decision # 195818). On November 29, 2013, decision # 195818 became final without a request for hearing having been filed. On February 14, 2014, claimant filed an untimely request for hearing. On March 4, 2014, ALJ Kangas issued Hearing Decision 14-UI-11559, 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.¹ On March 15, 2014, the Office of Administrative hearings (OAH) received claimant's response. On April 7, 2014, ALJ Kangas reviewed claimant's response and issued Hearing Decision 14-UI-14489, re-dismissing claimant's request for hearing. On April 22, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

On April 30, 2014, EAB issued Appeals Board Decision 2014-EAB-0667, affirming Hearing Decision 14-UI-14489. On May 14, 2014, claimant submitted a letter to the EAB regarding Appeals Board Decision 2014-EAB-0667. Claimant's letter is treated as a request to have EAB reconsider its decision under OAR 471-041-0145(1) (October 26, 2006), which allows a party to request reconsideration of an EAB decision to correct an error of material fact or law, or to explain any unexplained inconsistency with a Department rule, position, or practice.

In her letter, claimant contends that the Department unfairly assessed an overpayment because Department representatives gave her incorrect information. The issue before the ALJ was whether claimant had good cause to file an untimely request for a hearing on the administrative decision assessing an overpayment, however. In Hearing Decision 14-UI-14489, the ALJ found that claimant did not have good cause for filing a late hearing request, a conclusion that EAB affirmed in Appeals Board

¹ Hearing Decision 14-UI-11559.

Decision 2014-0667. Claimant has failed to demonstrate that EAB made any error of fact or law in denying her late request for a hearing. Accordingly, claimant's request for reconsideration is denied.

DECISION: On reconsideration, Hearing Decision 14-UI-14489 is affirmed.

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

DATE of Service: July 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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