

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0141

Affirmed
Late Request for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On March 11, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 91012) which concluded claimant voluntarily left work without good cause. On April 1, 2013, administrative decision # 91012 became final without a request for hearing having been filed. On April 26, 2013, the Department served notice of an administrative decision which concluded claimant did not actively seek work from January 20, 2013 through February 2, 2013 (weeks 4-13 and 5-13). On May 16, 2013, the April 26, 2013 administrative decision became final without a request for hearing having been filed.

On October 18, 2013, the Department served notice of an administrative decision (decision # 105924) assessing a \$881 overpayment based on decision # 91012. On November 7, 2013, administrative decision # 105924 became final without a request for hearing having been filed. On May 27, 2014, the Department served notice of an administrative decision (decision # 134541) assessing a \$720 overpayment based on the April 26, 2013 administrative decision. On June 16, 2014, administrative decision # 134541 became final without a request for hearing having been filed. On October 21, 2014, claimant filed late requests for hearing on decisions # 105924 and # 134541.

On November 12, 2014, ALJ Kangas issued Hearing Decisions 14-UI-28547 and 14-UI-28588, dismissing claimant's requests for hearing as untimely, subject to claimant's "right to renew" the requests by submitting responses to the "Appellant Questionnaire" attached to the hearing decisions within 14 days of the date the decisions were mailed.¹ On November 18, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On December 4, 2014, the OAH issued a "Cancellation of Hearing Decision" for Hearing Decisions 14-UI-28547 and 14-UI-28588. On January 16, 2015, ALJ Murdock conducted a consolidated hearing, and on January 21, 2015 issued Hearing Decisions 15-UI-32149 and 15-UI-32146, re-dismissing claimant's late request for hearing. On February 7, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

¹ Hearing Decisions 14-UI-28547 and 14-UI-28588

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-32149 and 15-UI-32146. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0141 and 2015-EAB-0142).

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 15-UI-32149 and 15-UI-32146 are affirmed. Administrative decisions # 105924 and # 134541 remain undisturbed.

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

DATE of Service: **February 19, 2015**

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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