

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0174

Affirmed
Late Request for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On April 5, 2010, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 113634). On April 26, 2010, decision # 113634 became final without a request for hearing having been filed. On February 28, 2011, the Department served notice of an administrative decision assessing a \$1,929 overpayment based on decision # 113634. On March 21, 2011, the overpayment decision became final without a request for hearing having been filed. On November 17, 2014, claimant filed a late request for hearing.

On December 10, 2014, ALJ Kangas issued Hearing Decision 14-UI-31025, dismissing claimant's request for hearing on the overpayment decision as untimely, subject to claimant's "right to renew" the request by submitting responses to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decisions were mailed.¹ On December 16, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On December 22, 2014, OAH issued a "Cancellation of Hearing Decision" on Hearing Decision 14-UI-31025.

On January 23, 2015, OAH served notice of a hearing scheduled for February 5, 2015 at 10:45 a.m. On February 5, 2015, ALJ Triana conducted a hearing. Claimant appeared at the hearing and requested a postponement; when the ALJ denied the postponement, claimant disconnected from the hearing and did not return. Audio at 6: 23~. The ALJ proceeded with the hearing after claimant disconnected. On February 11, 2015, ALJ Triana issued Hearing Decision 15-UI-33356, dismissing claimant's November 17, 2014 request for hearing. On February 12, 2015, OAH received a letter from claimant regarding the

¹ Hearing Decision 14-UI-31025

reasons why she requested a postponement.² On February 17, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

We consider EAB Exhibit 1, claimant's February 12, 2015 letter, as written argument presented in support of her application for review. In reaching this decision, we considered this written argument to the extent it was relevant and based on the hearing decision.

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 15-UI-33356 is affirmed.

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

DATE of Service: February 23, 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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² Claimant's letter, which was forwarded to EAB, will be marked as EAB Exhibit 1. A copy of EAB Exhibit 1 is included with this decision. Any party that objects to the admission of EAB Exhibit 1 the admission of EAB Exhibit 1 must submit its objections to this office in writing, setting forth the basis of the objection, within ten days of the date on which this decision is mailed. Unless such an objection is received, EAB Exhibit 1 will remain part of the record.