

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-0208

Affirmed
Late Requests for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On December 5, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 114105). On December 26, 2013, decision # 114105 became final without a request for hearing having been filed. On April 2, 2014, the Department served notice of two administrative decisions: one decision (decision # 123913) assessed a Regular Unemployment Insurance Benefits overpayment of \$1,665, and the other decision (decision # 124117) assessed an Emergency Unemployment Insurance Benefits overpayment of \$6,831. Both of these decisions were based on decision # 114105. On April 22, 2014, decisions # 123913 and # 124117 became final without requests for hearing having been filed. On January 20, 2015, claimant filed untimely requests for hearing on all three decisions.

On January 29, 2015, ALJ Kangas issued three Hearing Decisions, 15-UI-32593, 15-UI-32595 and 15-UI-32598, dismissing claimant's requests for hearing as untimely, subject to claimant's "right to renew" the requests by submitting a response to the "Appellant Questionnaires" attached to the hearing decisions within 14 days of the date the decisions were mailed.¹ On February 3, 2015, the Office of Administrative Hearings (OAH) received claimant's response. Also on February 3, 2015, claimant filed applications for review with the Employment Appeals Board (EAB).

On February 19, 2015, ALJ Kangas issued three Hearing Decisions -- 15-UI-33687, 15-UI-33688 and 15-UI-33716 -- cancelling Hearing Decisions 15-UI-32593, 15-UI-32595 and 15-UI-32598, and re-dismissing claimant's untimely requests for hearing. On February 25, 2015, claimant filed additional applications for review with the Employment Appeals Board (EAB).

Claimant failed to certify that he provided a copy of his 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

¹ Hearing Decisions 15-UI-32593, 15-UI-32595 and 15-UI-32598.

part of the record because it was not submitted to the ALJ in claimant's responses to the "Appellant Questionnaires." Claimant failed to show that factors or circumstances beyond his reasonable control prevented him from presenting this information to the ALJ. *See* OAR 471-041-0090 (October 29, 2006). We considered only information that is part of the hearing record when reaching this decision. *See* ORS 657.275(2).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-33687, 15-UI-33688 and 15-UI-33716. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2015-EAB-0208, 2015-EAB-0209 and 2015-EAB-0210).

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

DECISION: Hearing Decisions 15-UI-33687, 15-UI-33688 and 15-UI-33716 are affirmed. Administrative decisions # 114105, # 123913 and # 124117 remain undisturbed.

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

DATE of Service: March 5, 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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