

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0269**

*Affirmed*  
*Late Request for Hearing Dismissed*  
*Overpayment Assessed*

**PROCEDURAL HISTORY:** On September 11, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 85102) concluding claimant was not able to, available for and actively seeking work for the period of August 24, 2014 through September 6, 2014 (weeks 35-14 and 36-14). On October 1, 2014, decision # 85102 became final without a request for hearing having been filed. On October 14, 2014, the Department served notice of an administrative decision (decision # 144345) assessing a \$3,570 overpayment based on decision # 85102. On November 3, 2014, decision # 144345 became final without a request for hearing having been filed. On December 18, 2014, claimant filed late requests for hearing on both decisions. DR Exhibit 2.

On January 6, 2015, ALJ Kangas issued Hearing Decisions 15-UI-31378 and 15-UI-31379, dismissing claimant's requests for hearing on both decisions as untimely, subject to claimant's "right to renew" the request by submitting responses to the "Appellant Questionnaire" attached to the hearing decisions within 14 days of the date the decisions were mailed.<sup>1</sup> On January 16, 2015, the Office of Administrative Hearings (OAH) received claimant's response to Hearing Decision 15-UI-31379.<sup>2</sup> On February 18, 2015, OAH issued a "Cancellation of Hearing Decision" on Hearing Decision 15-UI-31379. On March 2, 2015, ALJ Shoemake conducted a hearing and on March 6, 2015 issued Hearing Decision 15-UI-34757, dismissing claimant's December 18, 2014 request for hearing. On March 12, 2015 filed an application for review with the Employment Appeals Board (EAB).

<sup>1</sup> Hearing Decisions 15-UI-31378 and 15-UI-31379.

<sup>2</sup> Claimant filed late requests for hearing on Department decisions # 85102 and # 144345. Claimant returned the questionnaire in response to Hearing Decision 15-UI-31379, which we infer was also a response to Hearing Decision 15-UI-31378. We have therefore combined consideration of both claimant's late requests for hearing on decisions #85102 and #144345 in making this decision because the reason for the dismissal of the late request for hearing would be the same for both Department decisions, i.e., claimant did not file an appeal within a reasonable amount of time after learning of the administrative decisions.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-31378 and 15-UI-31379. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0269 and 2015-EAB-0270).

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-34757 and 15-UI-31378 are affirmed.

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

**DATE of Service:** March 17, 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 Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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