

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0313

Affirmed
Late Request for Hearing Dismissed
Overpayment and Penalties

PROCEDURAL HISTORY: On May 21, 2014, the Department served notice of two administrative decisions (decisions # 115153 and # 133158) concluding that claimant failed without good cause to accept suitable work on February 20 and February 21, 2013. On June 6, 2014, the Department served notice of an administrative decision (decision # 194452) concluding claimant willfully made a misrepresentation to obtain benefits, and assessing a \$3,310 overpayment, \$496.50 in monetary penalties and 26 penalty weeks based on decisions # 115153 and # 133158.

On June 10, 2014, administrative decisions # 115153 and # 133158 became final without requests for hearing having been filed. On June 26, 2014 decision # 194452 became final without a request for hearing having been filed. On December 30, 2014, claimant filed late requests for hearing on decisions # 115153, #133158, and # 194452.

On January 12, 2015, ALJ Kangas issued Hearing Decision 15-UI-31694, dismissing claimant's request for hearing on decision # 194452 (the overpayment decision) 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 Also on January 12, 2015, ALJ Kangas issued Hearing Decision 15-UI-31695, dismissing claimant's request for hearing on decisions #115153 and 133158, also subject to claimant's "right to renew" the request by submitting a questionnaire attached to the decision within 14 days of the date the decision was mailed.²

On January 16, 2015, the Office of Administrative Hearings (OAH) received claimant's response. Also on January 16, 2015, claimant filed applications for review of Hearing Decisions 15-UI-31694 and 15-UI-31695 with the Employment Appeals Board (EAB).

¹ Hearing Decision 15-UI-31694.

² Hearing Decision 15-UI-31695.

On February 3, 2015, OAH issued a “Cancellation of Hearing Decision” for Hearing Decision 15-UI-31694. On February 20, 2015, ALJ Vincent conducted a hearing and on February 27, 2015 issued Hearing Decision 15-UI-34302, re-dismissing claimant’s December 30, 2014 request for hearing on the overpayment decision # 194452. On March 13, 2015, claimant filed an application for review of Hearing Decision 15-UI-34302 with the EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-31695 and 15-UI- 34302. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB 0283 and 2015-EAB-0313).

In regard to claimant’s application for review of Hearing Decision 15-UI-31695, we note that claimant failed to provide OAH with the information it requested regarding the reasons for his late hearing request. In the “Appellant Questionnaire” claimant submitted to OAH on January 16, 2015, he explained why he filed a late hearing request on the June 6, 2014 overpayment decision (# 194452), but it provides no reasons why he filed late hearing requests on the May 21, 2014 decisions concerning his failure to accept suitable work (decisions # 115153 and # 133158). Claimant therefore failed to demonstrate he had good cause to file late hearing requests on these decisions as required by ORS 657.875 and in accordance with OAR 471-040-0010.

In regard to claimant’s application for review of Hearing Decision 15-UI-34302, EAB reviewed the entire hearing record in this case. We agree with the ALJ’s conclusion that claimant did not have good cause to file a later hearing request on decision #194452.

On *de novo* review and pursuant to ORS 657.275(2), Hearing Decisions 15-UI-31695 and 15-UI-34302 are **adopted**.

DECISION: Hearing Decision 15-UI-31695 is affirmed.

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

DATE of Service: March 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 Court of Appeals website at 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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