

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0346

Affirmed
Overpayment and Penalties

PROCEDURAL HISTORY: On January 30, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, was overpaid \$706 in benefits that he is liable to repay, is disqualified from 10 weeks of future benefits, and subject to a \$105.90 monetary penalty (decision # 195099). Claimant filed a timely request for hearing. On March 10, 2015, ALJ Upite conducted a hearing, and on March 13, 2015 issued Hearing 15-UI-35108, concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, but that he was overpaid \$536 in benefits that he is liable to repay, disqualified from 8 weeks of future benefits, and subject to an \$80.40 monetary penalty. On March 30, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered the entire hearing record and claimant's written argument to the extent it was based on information received into evidence at the hearing. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). The employer failed to certify that it provided a copy of its written argument to claimant as required by OAR 471-041-0080(2)(a) (October 29, 2006). EAB therefore did not consider the employer's argument when reaching this decision.

On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 15-UI-35108 is affirmed.

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

DATE of Service: May 15, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.