

**EMPLOYMENT APPEALS BOARD DECISION**  
**2015-EAB-0573**

*Affirmed*  
*Overpayment Assessed*

**PROCEDURAL HISTORY:** On February 19, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work and was ineligible for benefits from November 23, 2014 through February 14, 2015 (decision #125042). That decision became final on March 11, 2015, without a request for hearing having been filed. On March 31, 2015, claimant filed a late request for hearing on decision #125042. On April 6, 2015, ALJ Kangas issued Hearing Decision 15-UIB-36345, dismissing claimant's request for hearing 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.<sup>1</sup> The Office of Administrative Hearings (OAH) received claimant's response within 14 days. On April 13, 2015, OAH issued a letter entitled, "Cancellation of Hearing Decision" and ordered that a hearing be set to address the timeliness of claimant's hearing request, and if appropriate, the merits of the underlying administrative decision. On April 13, 2015, OAH sent a notice of hearing to the parties scheduling the hearing for April 29, 2015 at 9:30 a.m. Claimant failed to appear at the hearing, and on April 29, 2015, ALJ Seideman issued Hearing Decision 15-UI-37685, dismissing claimant's request for hearing for that reason. On May 18, 2015, claimant filed a request to reopen, asserting he missed the hearing due to his work schedule. On May 27, 2015, OAH mailed the parties notice of hearing scheduled for June 10, 2015 at 10:45 a.m. On June 10, 2015, ALJ Clink conducted a hearing, at which claimant appeared and testified, and on June 17, 2015, issued Hearing Decision 15-UI-40200, granting claimant's request to reopen and dismissing Hearing Decision 15-UI-37685, but dismissing claimant's late request for hearing based on his failure to demonstrate good cause for his untimely request. On July 7, 2015, Hearing Decision 15-UI-40200 became final without an application for review being filed.

On March 25, 2015, the Department served notice of an administrative decision assessing a \$2,580 overpayment of regular benefits based on decision # 125042 (decision #155050). Claimant filed a timely request for hearing. On April 29, 2015 at 10:45 a.m., ALJ Seideman conducted a hearing, at which claimant appeared and testified, and issued Hearing Decision 15-UI-37684, affirming the

<sup>1</sup> Hearing Decision 13-UI-36345.

overpayment decision #155050. On May 18, 2015, claimant filed an application for review of Hearing Decision 15-UI-37684 with the Employment Appeals Board (EAB).

EAB considered claimant's written argument to the extent it was relevant and based on the hearing record.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 15-UI-37684 is **adopted**.

**DECISION:** Hearing Decision 15-UI-37684 is affirmed.

J. S. Cromwell and D. P. Hettle, *pro tempore*;  
Susan Rossiter, not participating.

**DATE of Service:** July 10, 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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