

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0729-R

*EAB Decisions 2015-EAB-0729 and 2015-EAB-0730 Adhered To On Reconsideration
Late Request for Hearing Denied
Overpayment Assessed*

PROCEDURAL HISTORY: On March 20, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision #90452) concluding that claimant did not actively seek work from January 11 through February 28, 2015 (weeks 02-15 through 08-15). On April 9, 2015, decision #90452 became final without a request for hearing having been filed.

On April 22, 2015, the Department served notice of an administrative decision (decision #115903) concluding that claimant was overpaid \$1,729 in unemployment benefits, based on decision #90452. On April 28, 2015, claimant filed a late request for hearing on decision #90452 and a timely request for hearing on decision #115903. On May 22, 2015, ALJ Murdock conducted two hearings and on May 27, 2015, issued the following hearing decisions: Hearing Decision 15-UI-39093, dismissing claimant's late request for a hearing on decision #90452 and Hearing Decision 15-UI-39095, affirming the overpayment decision (decision #115903). On June 15, 2015, claimant filed applications for review of both hearing decisions with the Employment Appeals Board (EAB). On June 22, 2015, EAB issued Appeals Board Decisions 2015-EAB-0729 and 2015-EAB-0730, affirming the hearing decisions under review.

On June 26, 2015, claimant submitted a written argument. In accordance with ORS 657.290(3), EAB will reconsider this case on its own motion to consider claimant's written argument.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its reconsideration of Appeals Board Decisions 2015-EAB-0729 and 2015-EAB-0730. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0729-R and 2015-EAB-0730-R).

In his written argument, claimant explained the reasons for his disagreement with the administrative decision issued on March 20, 2015 (#90452) that concluded he did not actively seek work from January 11 through February 28, 2015. That administrative decision became final as a matter of law when

claimant failed to timely request a hearing. Claimant's late request for a hearing was dismissed by the ALJ in Hearing Decision 15-UI-39093, a decision that was affirmed by EAB. We therefore have no authority to address the merits of the administrative decision concerning claimant's work search.

On reconsideration, EAB may make a new decision "to the extent necessary and appropriate for the correction of previous error of fact or law." ORS 657.290(3). We conclude that we made no error of fact or law in our original decisions and therefore adhere to them.

DECISION: Reconsideration is granted. We adhere to our decisions in Appeals Board Decisions 2015-EAB-0729 and 2015-EAB-0730.

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

DATE of Service: June 30, 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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