

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0776

*Hearing Decisions 15-UI-40440 and 15-UI-40461 Affirmed
Overpayment Assessed*

PROCEDURAL HISTORY: On October 27, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 130115) concluding that claimant received vacation pay in excess of his weekly benefit amount for the period from September 21 through October 18, 2014 (weeks 39-14 through 42-14). On November 17, 2014, decision #130115 became final without a request for hearing having been filed. On November 28, 2014, the Department served notice of an administrative decision (#163251) assessing a \$1,647 overpayment based on decision #130115. On December 18, 2014, decision #163251 became final without a request for hearing having been filed. On April 9, 2015, claimant filed late requests for hearing on decisions #130115 and #163251.

On April 16, 2015, ALJ Kangas issued Hearing Decisions 15-UI-37010 and 15-UI-37014, dismissing claimants hearing requests, subject to claimant's right to renew these requests if claimant filed responses to appellant questionnaires within 14 days of the date the decisions were mailed. On April 24, 2015, claimant filed timely responses. On May 6, 2015, the Office of Administrative Hearings mailed letters canceling Hearing Decisions 15-UI-37010 and 15-UI-37014. On June 16 and June 18, 2015, ALJ Murdock conducted hearings, and on June 22, 2015, issued two hearing decisions: Hearing Decision 15-UI-40440, which allowed claimant's request for a hearing on decision #130115 (the vacation pay decision), and affirmed that decision; and Hearing Decision 15-UI-40461, which allowed claimant's request for hearing on decision #163251 (the overpayment decision), and affirmed that decision. On June 29, 2015, claimant filed applications for review of both hearing decisions.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-40440 and 15-UI-40461. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-07776 and 2015-EAB-07777).

EAB reviewed the entire hearing records. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 15-UI-40440 and 15-UI-40461 are affirmed.

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

DATE of Service: July 8, 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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