

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0903

Affirmed
Request to Reopen Denied
Overpayment Assessed

PROCEDURAL HISTORY: On May 28, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (#75025) concluding that claimant did not actively seek work from May 10 through May 23, 2015 (weeks 19-15 and 20-15). Claimant filed a timely request for hearing. On June 12, 2015, the Office of Administrative Hearings (OAH) issued notice of a hearing scheduled for June 26, 2015. On June 26, 2015, ALJ Holmes-Swanson issued Hearing Decision 15-UI-40783, dismissing claimant's hearing request for failure to appear. On June 30, 2015, the Department served notice of an administrative decision (#144703) assessing a \$724 overpayment based on decision #75025. Claimant filed a timely request for hearing on decision #144703.

On July 1, 2015, claimant filed a request to reopen the hearing on decision #75025. On July 9, 2015, ALJ Kangas issued Hearing Decision 15-UI-41254, dismissing claimant's request to reopen. On July 22, 2015, ALJ Frank conducted a hearing and on July 24, 2015, issued Hearing Decision 15-UI-42005, affirming administrative decision # 144703, the overpayment decision. On July 24, 2015, claimant filed an application for review of both hearing decisions with the Employment Appeals Board (EAB).

With his application for review, claimant included a letter in which he provided information about his work for an employer, and the work search he performed after this employer laid him off. Under OAR 471-041-0090 (October 29, 2006), EAB may consider new evidence if the party presenting the evidence shows it is relevant and material to EAB's determination, and that circumstances beyond the party's reasonable control prevented the party from offering the information at hearing. Information about claimant's employer and work search is not relevant or material to the issues before us: whether claimant was overpaid benefits and whether claimant had good cause to reopen his hearing under OAR 471-040-0040 (February 10, 2012). Accordingly, we will not consider this new evidence.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 15-UI-41254 and 15-UI-42005. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-0902 and 2015-EAB-0903).

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

DECISION: Hearing Decisions 15-UI-41254 and 15-UI-42005 are affirmed.

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

DATE of Service: July 31, 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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