

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1190

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On August 19, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 74637) concluding claimant was incarcerated from August 5, 2015 to August 10, 2015 and, therefore, was not available for work from August 2, 2015 to August 15, 2015. Claimant filed a timely request for hearing. On September 1, 2015, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for September 15, 2015 at 2:30 p.m. On September 15, 2015, ALJ S. Lee dismissed claimant's request for hearing for failure to appear at the scheduled hearing. On September 16, 2015, claimant filed a request to reopen the hearing. On September 22, 2015, ALJ Kangas considered claimant's request and issued Hearing Decision 15-UI-44624, denying claimant's request to reopen. On October 6, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's application for review included a "two tier" request, first requesting a review of Hearing Decision 15-UI-44624 because she disagreed with a finding that she "was not physically able to do the job" for the week of August 5 to August 10, 2015, and second requesting information about "the policy and dollar amount calculation" related to a "money allotment of \$191.00."

As to claimant's first issue, decision # 74637 stated that claimant was incapable of accepting or reporting for work during the referenced period based on her incarceration, not based upon claimant's physical ability to work. EAB has reviewed Department records and been unable to identify any other decision issued by OAH or the Department containing a ruling that claimant was not "physically able to do the job" for the referenced period. Regardless, EAB does not have jurisdiction to review the merits of decision # 74637. Because claimant failed to appear at the hearing on that decision and her request for hearing was dismissed, our review in this matter is limited to whether or not claimant had good cause to reopen the hearing, and, for the reasons explained in Hearing Decision 15-UI-44624, we agree with the ALJ that she did not.

As to claimant's second issue, as previously stated, EAB's jurisdiction in this matter is confined to the issue of her request to reopen. If claimant has any questions about the "money allotment" or "the policy

and dollar amount calculation for the money in question," she must direct her inquiry to adjudication or claim center staff with the Oregon Employment Department. The Department can be reached at (877) 345-3484 if claimant chooses to do so.

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

DECISION: Hearing Decision 15-UI-44624 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: October 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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