

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-1621-R

*Affirmed
Disqualification*

PROCEDURAL HISTORY: On December 27, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 111433). On January 16, 2014, administrative decision # 111433 became final without a request for hearing having been filed. On October 31, 2014, the Department served notice of an administrative decision (decision #195051) assessing a \$10,567 overpayment, \$1,585.05 in monetary penalties, and 52 penalty weeks based on decision # 111433. On November 17, 2014, claimant filed a late request for hearing on decision # 111433 and a timely request for hearing on decision #195051.

On November 28, 2014, the Office of Administrative Hearings (OAH) issued notices of two hearings scheduled for December 15, 2014, one at 9:30 a.m. and one at 10:45 a.m. Claimant appeared at the first hearing regarding decision # 111433, but failed to appear at the 10:45 a.m. hearing regarding decision #195051. On December 15, 2014, ALJ R. Davis issued two decisions. Hearing Decision 14-UI-30384 dismissed claimant's late request for hearing on decision # 111433, leaving decision # 111433 undisturbed. Hearing Decision 14-UI-30374 dismissed claimant's request for hearing on decision #195051 because she failed to appear, leaving decision #195051 undisturbed.

On January 2, 2015, claimant filed an application for review of both decisions with the Employment Appeals Board (EAB). On January 7, 2015, EAB issued Appeals Board Decisions 2015-EAB-1621 and 2015-EAB-1622, affirming the hearing decisions under review. On January 16, 2015, claimant submitted additional written argument to EAB. Under the authority granted to us by ORS 657.290(3), we will reconsider Appeals Board Decisions 2015-EAB-1621 and 2015-EAB-1622 to address issues raised in claimant's written argument.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its reconsideration of Hearing Decisions 14-UI-30384 and 14-UI-30374. For case-tracking purposes, these decisions are being issued in duplicate (EAB Decisions 2015-EAB-1621-R and 2015-EAB-1622-R).

In her January 16, 2015 argument, claimant presented what appears to be information and evidence regarding the work separation at issue in decision # 111433. However, that issue has never been before us. Hearing Decision 14-UI-30384 dismissed claimant's late request for hearing on decision # 111433, which concluded claimant voluntarily left work without good cause, and concluded that because the request for hearing was untimely, decision #111433 had become final. EAB affirmed Hearing Decision 14-UI-30384. Based on our agreement with the ALJ's dismissal of claimant's late hearing request, we did not and will not address the merits of claimant's work separation.

Under ORS 75.290(3), EAB may reconsider a decision to correct a previous error of fact or law. Claimant has failed to demonstrate any error of fact or law in Appeals Board Decisions 2015-EAB-1621, and 2015-EAB-1622. The requests for reconsideration are denied.

DECISION: Claimant's requests for reconsideration are denied. Appeals Board Decisions 2015-EAB-1621 and 2015-EAB-1622 remain undisturbed.

Susan Rossiter and Tony Corcoran;
J. S. Cromwell, not participating.

DATE of Service: January 22, 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 website at court.oregon.gov. Once on the website, click on the blue tab for "Materials and Resources." On the next screen, click on the tab that reads "Appellate Case Info." On the next screen, select "Appellate Court Forms" from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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