

EMPLOYMENT APPEALS BOARD DECISION

2015-EAB-1635

Affirmed
Disqualification
Late Request for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On May 23, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 80522) concluding claimant did not actively seek work during weeks between April 21, 2013 and November 9, 2013. On June 12, 2014, decision # 80522 became final without a request for hearing having been filed. On August 27, 2014, the Department served notice of an administrative decision (decision # 140552) assessing a \$3,930 overpayment based on decision # 80522. On September 16, 2014, decision # 140552 became final without a request for hearing having been filed. On October 21, 2014, claimant filed untimely requests for hearing on both decisions.

On October 28, 2014, ALJ Kangas issued Hearing Decisions 14-UI-27734 and 14-UI-27717, dismissing claimant's requests for hearing as untimely, subject to claimant's "right to renew" the requests by submitting responses to the "Appellant Questionnaire" attached to the hearing decision within 14 days of the date the decisions were mailed.¹ On November 6, 2014, the Office of Administrative Hearings (OAH) received claimant's response. On November 26, 2014, OAH issued two notices, "Cancellation of Hearing Decision" for Hearing Decisions 14-UI-27734 and 14-UI-27717. On December 17, 2014, ALJ Frank conducted two hearings, and on December 19, 2014 issued two Hearing Decisions. Hearing Decision 14-UI-30711 allowed claimant's late request for hearing and affirmed decision # 80522, finding claimant was ineligible for benefits for the periods April 21 through June 1, 2013 (weeks 17-13 through 22-13), June 16 through June 29, 2013 (weeks 25-13 and 26-13), July 7 through July 27, 2013 (weeks 28-13 through 30-13), and August 4 through November 9, 2013 (weeks 32-13 through 45-13). Hearing Decision 14-UI-30719 re-dismissed claimant's request for hearing and left the Department's overpayment decision # 140552 undisturbed. On January 6, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

¹ Hearing Decisions 14-UI-27734 and 14-UI-27717.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 14-UI-30711 and 14-UI-30719. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2015-EAB-1634 and 2015-EAB-1635).

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 14-UI-30711 and 14-UI-30719 are affirmed.

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

DATE of Service: January 13, 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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