

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0186

Affirmed
Overpayment, No Penalties

PROCEDURAL HISTORY: On September 14, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 84534) concluding that claimant was not available for work from May 24 through June 27, 2015 and July 5 through July 11, 2015 (weeks 21-15 through 25-15 and 27-15). Claimant filed a timely request for hearing on decision # 84534. On October 15, 2015, the Department issued a decision concluding that, based on decision # 84534, claimant was overpaid benefits in the amount of \$566, and assessing a \$141.50 monetary penalty and six penalty weeks (decision # 195540). On October 16, 2015, ALJ Shoemake conducted a hearing on claimant's request for hearing on decision # 84534, the decision concerning claimant's availability for work, and on October 22, 2015, issued Hearing Decision 15-UI-46394, affirming decision # 84534. On November 12, 2015, Hearing Decision 15-UI-46394 became final without an application for review having been filed.

On January 27, 2016, ALJ Triana conducted a hearing on claimant's request for hearing on decision # 195540, the overpayment decision and on January 29, 2016, issued Hearing Decision 16-UI-52015, modifying decision # 195540. In Hearing Decision 16-UI-52015, the ALJ concluded that claimant was overpaid benefits in the amount of \$566, but assessed no monetary penalty or penalty weeks. On February 16, 2016, claimant filed an application for review of Hearing Decision 16-UI-52015.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 16-UI-52015 is **adopted**.

DECISION: Hearing Decision 16-UI-52015 is affirmed.

Susan Rossiter and J. S. Cromwell;
D. H. Hettle, not participating.

DATE of Service: March 1, 2016

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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