

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0255

Affirmed
Overpayment Assessed

PROCEDURAL HISTORY: On November 6, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 82132) concluding claimant was not able to work or available for work from August 23 to October 31, 2015 (weeks 34-15 through 43-15). Claimant filed a timely request for hearing. On December 4, 2015, ALJ Shoemake conducted a hearing, and on December 8, 2015 issued Hearing Decision 15-UI-48932, concluding claimant was not able to work or available for work from August 23, 2015 to November 21, 2015. On December 28, 2015, Hearing Decision 15-UI-48932 became final without having filed an application for review with the Employment Appeals Board (EAB).

On January 13, 2016, the Department served notice of an administrative decision concluding, based on Hearing Decision 15-UI-48932, that claimant was overpaid \$5,103 (decision # 94828). Claimant filed a timely request for hearing. On February 19, 2016, ALJ Monroe conducted a hearing, and on February 26, 2016 issued Hearing Decision 16-UI-53858, affirming the Department's overpayment decision. On March 3, 2016, claimant filed a timely application for review of Hearing Decision 16-UI-53858 with EAB.

Our review in this matter is confined to the overpayment matter at issue in Hearing Decision 16-UI-53858. Although claimant asserted during the hearing on the overpayment matter that he filed an application for review of Hearing Decision 15-UI-48932, we have reviewed EAB records as well as the Department and OAH records available to EAB and have found nothing suggesting that claimant previously filed an application for review of Hearing Decision 15-UI-48932. If claimant believes he has, claimant should contact EAB for instructions on how to proceed.

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 16-UI-53858 is affirmed.

Susan Rossiter and J. S. Cromwell;

D. P. Hettle, not participating.

DATE of Service: March 15, 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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