

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0411

Affirmed
Overpayment, No Penalties

PROCEDURAL HISTORY: On August 12, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct (decision # 142959). On September 1, 2015, decision # 142959 became final without a timely request for hearing having been filed. On November 20, 2015, the Department served notice of an administrative decision (decision # 195315) assessing a \$5,490 overpayment, \$823.50 monetary penalty and 40 penalty weeks. On December 1, 2015, claimant filed a timely request for hearing on decision # 195315 and a late request for hearing on decision # 142959. On March 14, 2016, ALJ Vincent conducted two hearings, and on March 22, 2016 issued Hearing Decision 16-UI-55551, concluding claimant was overpaid \$5,490 but was not liable for any penalties, and hearing Decision 16-UI-55543, denying claimant's late request for hearing on decision # 142959. On April 6, 2016, claimant filed an application for review of Hearing Decision 16-UI-55551 with the Employment Appeals Board (EAB). On April 11, 2016, Hearing Decision 16-UI-55543 became final without claimant having filed an application for review with EAB.

EAB's review is confined to the issues presented in Hearing Decision 16-UI-55551. No adversely affected party requested review of the portion of Hearing Decision 16-UI-55551 concluding claimant was not liable for misrepresentation penalties. Therefore, we confined our review of that decision to the overpayment issue.

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-55551 is affirmed.

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

DATE of Service: April 13, 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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