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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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<p>EMPLOYMENT APPEALS BOARD DECISION 2016-EAB-0779</p>
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Affirmed
Late Request for Hearing Dismissed
Overpayment, No Penalties

PROCEDURAL HISTORY: On March 31, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from September 27, 2015 to January 23, 2016 (decision # 82951). On April 12, 2016, the Department served notice of another administrative decision, based on decision # 82951, assessing a \$6,228 overpayment, \$1,868.40 monetary penalty and 44 penalty weeks (decision # 202375). On April 20, 2016, decision # 82951 became final without claimant having filed a request for hearing. On April 26, 2016, claimant filed a late request for hearing on decision # 82951 and a timely request for hearing on decision # 202375. On June 7, 2016, ALJ R. Frank conducted two hearings, and on June 10, 2016 issued Hearing Decision 16-UI-61471, dismissing claimant's late request for hearing on decision # 82951, and Hearing Decision 16-UI-61531, modifying decision # 202375, and concluding that claimant was liable to repay \$6,228 in benefits he was not entitled to receive, but was not liable for any misrepresentation penalties. On June 30, 2016, claimant filed applications for review of Hearing Decision 16-UI-61471 and 16-UI-61531 with the Employment Appeals Board (EAB).

No adversely affected party requested review of the portion of Hearing Decision 16-UI-61531 in which the ALJ concluded claimant was not liable for misrepresentation penalties. We therefore confined our review to the late request for hearing and overpayment issues.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions Hearing Decision 16-UI-61471 and 16-UI-61531. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2016-EAB-0779 and 2016-EAB-0780).

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 Decision 16-UI-61471 and 16-UI-61531 are affirmed.

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

DATE of Service: July 11, 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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