

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1260

Affirmed
Request for Hearing Dismissed

PROCEDURAL HISTORY: On September 26, 2016, the Oregon Employment Department (the Department) served notice of administrative decision # 131848, which concluded that claimant was disqualified from the receipt of unemployment benefits because she was receiving retirement pay, and decision # 123107, which concluded that claimant was eligible to receive unemployment benefits for the period between academic years. On September 27, 2016, the Department served notice of administrative decision # 135449, which concluded that the employer dismissed claimant, but not for misconduct. Claimant filed timely hearing requests on decision # 135449 and # 131848. On October 17, 2016, ALJ Kangas issued Hearing Decision 16-UI-69347, dismissing claimant's hearing request because it presented no justiciable controversy.¹ On November 3, 2016, claimant filed an application for review of Hearing Decision 16-UI-69347 with the Employment Appeals Board (EAB).

FINDING OF FACT: Decision # 135449, one of the decisions for which claimant requested a hearing, concluded that claimant was not disqualified from the receipt of unemployment benefits on the basis of her work separation from Blue Mountain Community College.

CONCLUSION AND REASONS: The ALJ did not err in dismissing claimant's request for hearing on decision # 135449.

Administrative decision # 135449 was not adverse to claimant and had no practical effect on claimant's rights or interests. Because EAB is obliged to issue decisions that are consistent with sound principles governing judicial review, and must address only existing controversies between parties, we decline to address matters that will have no practical effect on the rights of the parties to the controversy. *See Barcik v. Kubiacyk*, 321 Or 174, 895 P2d 765 (1995); *Brummett v. PSRB*, 315 Or 402, 848 P2d 1194 (1992). We therefore agree with the ALJ and conclude that the ALJ properly dismissed claimant's request for a hearing on decision # 135449.

¹ A hearing has not yet been scheduled on claimant's request for a hearing on decision # 131848.

In her application for review, however, claimant explained that she was confused by the Department decisions she received, stating that she received “two notifications which said that my unemployment funds were approved,” and then, “received another letter on the same day that said I was denied.” Claimant’s confusion is understandable, given the process the Department has chosen to notify claimants about their disqualification from and eligibility to receive unemployment benefits. The law provides numerous reasons for which the Department can find individuals disqualified from or ineligible to receive unemployment benefits, and the Department issues separate decisions regarding each of the reasons for ineligibility or disqualification. Thus, claimant received one decision – # 135449 – that addressed one reason for disqualification and that found she was not disqualified from benefits on the basis of her work separation from Blue Mountain Community College. Claimant received a second decision – # 123107 – that addressed one reason for eligibility and that found claimant was eligible to receive unemployment benefits for the period between academic years. Because these two decisions were favorable to claimant and did not adversely affect her rights or interests, she is not entitled to a hearing on either of them. However, claimant also received a third decision – # 131848 – that addressed another reason for disqualification and found that claimant was disqualified from the receipt of benefits because she is receiving retirement benefits. Because the third decision – # 131848 – did adversely affect claimant’s rights and interests, she is entitled to a hearing on it and has timely requested one. Her hearing request is pending with the Office of Administrative Hearings, and claimant may contact OAH at 1-800-947-1515 with any questions about the scheduling of her hearing.

DECISION: Hearing Decision 16-UI-69347 is affirmed.

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

DATE of Service: November 17, 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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