

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1442

Affirmed
Overpayment Assessed

PROCEDURAL HISTORY: On June 22, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work and did not actively seek work from March 20, 2016 to March 26, 2016 and April 3, 2016 to May 7, 2016 (decision # 130207). On July 12, 2016, decision # 130207 became final without claimant having filed a timely request for hearing. On November 4, 2016, the Department served notice of another administrative decision assessing a \$815 overpayment claimant was required to repay (decision # 93000). On November 7, 2016, claimant filed a late request for hearing on decision # 130207 and a timely request for hearing on decision # 93000. On November 17, 2016, the Office of Administrative Hearings (OAH) mailed notice of two hearings, a hearing on decision # 130207 scheduled for December 2, 2016 at 1:30 p.m. and a hearing on decision # 93000 scheduled for December 2, 2016 at 2:30 p.m. On December 2, 2016, claimant failed to appear for the 1:30 p.m. hearing but appeared for the 2:30 p.m. hearing. ALJ Wyatt conducted the 2:30 p.m. hearing,¹ and on December 7, 2016 issued Hearing Decision 16-UI-72434, dismissing claimant's request for hearing on decision # 130207 based on claimant's failure to appear, and Hearing Decision 16-UI-72446, affirming decision # 93000. On December 27, 2016, claimant filed an application for review of Hearing Decision 16-UI-72446 with the Employment Appeals Board (EAB); Hearing Decision 16-UI-72434 became final without claimant having filed a request to reopen the hearing on decision # 130207.² This matter is before EAB to review only the record pertaining to Hearing Decision 16-UI-72446.

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-72446 is affirmed.

¹ During the 2:30 hearing the ALJ gave claimant instructions regarding filing a request to reopen the 1:30 p.m. hearing she had missed.

² Claimant filed her application for review using a form specific to Hearing Decision 16-UI-72446. She did not include any written statement or indication expressing an intent to request that the hearing in the other matter be reopened.

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

DATE of Service: January 6, 2017

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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