

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0053

Affirmed
Late Request for Hearing Dismissed

PROCEDURAL HISTORY: On August 23, 2016, the Oregon Employment Department (the Department) served notice of the following four administrative decisions: decision # 124004, concluding that claimant refused an offer of work for May 5, 2016 without good cause; decision # 133641, concluding that claimant refused an offer of work for May 9, 2016 without good cause; decision # 132340, concluding that claimant refused another offer of work for May 9, 2016 without good cause; and decision # 141211, concluding that claimant missed an opportunity to work on April 21, 2016 and was therefore not available for work that week. On August 24, 2016, the Department served notice of the following two administrative decisions: decision # 85742, concluding that claimant refused an offer of work for May 12, 2016 without good cause; and decision # 143617, concluding that claimant did not actively seek work during the week of June 12, 2016 to June 18, 2016. On August 25, 2016, the Department served notice of administrative decision # 193174, concluding that claimant was overpaid \$187 because she underreported her earnings when claiming benefits weeks 18-16, 20-16, 21-16 and 24-16. On September 12, 2016, decisions # 124004, 133641, 132340 and 141211 became final without claimant having requested hearings. On September 13, 2016, decisions # 85742 and 143617 became final. On September 14, 2016, decision # 193174 became final.

On September 22, 2016, the Department served notice of the following two administrative decisions: decision # 145703, concluding that claimant was overpaid \$4708 based on the decisions concluding she had refused offers of work without good cause; and decision # 144658, concluding that claimant was overpaid \$400 based on decision # 141211. On October 12, 2016, decisions # 145703 and 144658 became final without claimant having requested hearings on either decision.

On October 26, 2016, claimant filed late requests for hearing for all nine administrative decisions. On October 31, 2016, ALJ Kangas issued the following hearing decisions, all of which dismissed claimant's late requests for hearing on the administrative decisions subject to her right to renew the requests by responding to appellant questionnaires no later than November 14, 2016: Hearing Decision 16-UI-70250 dismissed claimant's request for hearing on decision # 85742; Hearing Decision 16-UI-70255 dismissed claimant's request for hearing on decision # 124004; Hearing Decision 16-UI-70258 dismissed claimant's request for hearing on decision # 133641; Hearing Decision 16-UI-70263

dismissed claimant's request for hearing on decision # 132340; Hearing Decision 16-UI-70267 dismissed claimant's request for hearing on decision # 141211; Hearing Decision 16-UI-70251 dismissed claimant's request for hearing on decision # 193174; Hearing Decision 16-UI-70253 dismissed claimant's request for hearing on decision # 145703; Hearing Decision 16-UI-70254 dismissed claimant's request for hearing on decision # 144659; and Hearing Decision 16-UI-70265 dismissed claimant's request for hearing on decision # 143617.

On November 21, 2016, the Office of Administrative Hearings (OAH) received claimant's response to the appellant questionnaires; on November 21, 2016, claimant also filed timely applications for review of the October 31, 2016 hearing decisions with the Employment Appeals Board (EAB). On November 22, 2016, ALJ Kangas issued nine letters to claimant stating that her questionnaire responses were late and therefore would not be considered.

On December 1, 2016, EAB issued the following decisions: Decision 2016-EAB-1329 reversed and remanded Hearing Decision 16-UI-70250; Decision 2016-EAB-1330 reversed and remanded Hearing Decision 16-UI-70251; Decision 2016-EAB-1331 reversed and remanded Hearing Decision 2016-UI-70253; Decision 2016-EAB-1332 reversed and remanded Hearing Decision 16-UI-70254; Decision 2016-EAB-1333 reversed and remanded Hearing Decision 70255; Decision 2016-EAB-1334 reversed and remanded Hearing Decision 16-UI-70258; Decision 2016-EAB-1335 reversed and remanded Hearing Decision 16-UI-70263; Decision 2016-EAB-1336 reversed and remanded Hearing Decision 16-UI-70265; and Decision 2016-EAB-1337 reversed and remanded Hearing Decision 16-UI-70267.

On December 20, 2016, ALJ S. Lee conducted consolidated hearings, and on December 28, 2016, issued the following hearing decisions: Hearing Decision 16-UI-73712 re-dismissed claimant's request on decision # 143617; Hearing Decision 16-UI-73736 re-dismissed claimant's request for hearing on decision # 85742; Hearing Decision 16-UI-73737 re-dismissed claimant's request for hearing on decision # 124004; Hearing Decision 16-UI-73738 re-dismissed claimant's request for hearing on decision # 133641; Hearing Decision 16-UI-73739 re-dismissed claimant's request for hearing on decision # 132340; Hearing Decision 16-UI-73740 re-dismissed claimant's request for hearing on decision # 141211; Hearing Decision # 16-UI-73741 re-dismissed claimant's request for hearing on decision # 193174; Hearing Decision # 16-UI-73744 re-dismissed claimant's request for hearing on decision # 145703; and Hearing Decision 16-UI-73745 re-dismissed claimant's request for hearing on decision # 144659. On January 9, 2017, claimant filed applications for review of the December 28, 2016 hearing decisions with EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of the nine December 28 hearing decisions. For case-tracking purposes, this decision is being issued in nonuplicate (EAB Decisions 2017-EAB-0044; 2017-EAB-0045; 2017-EAB-0046; 2017-EAB-0047; 2017-EAB-0048; 2017-EAB-0049; 2017-EAB-0051; 2017-EAB-0052 and 2017-EAB-0053).

EAB considered the entire records in these cases. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 16-UI-73712, 16-UI-73736, 16-UI-73737, 16-UI-73738, 16-UI-73739, 16-UI-73740, 16-UI-73741, 16-UI-73744, and 16-UI-73745 are affirmed.

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

DATE of Service: January 27, 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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