

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1152

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On April 5, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from February 26 through March 18, 2017 (decision # 145032). Claimant filed a timely request for hearing. On July 27, 2017, the Office of Administrative Hearings (OAH) served notice of a hearing scheduled for August 10, 2017. On August 10, 2017, claimant failed to appear at the hearing, and ALJ Murdock issued Hearing Decision 17-UI-90078, dismissing claimant's request for hearing due to his failure to appear. On August 28, 2017, claimant filed a timely request to reopen the August 10, 2017 hearing. On or before August 31, 2017, OAH decided to deny claimant's request, and on August 31, 2017 intended to issue a hearing decision to that effect, but erroneously issued Hearing Decision 17-UI-91693, which is a copy of Hearing Decision 17-UI-90078 dismissing claimant's request for hearing on decision # 145032 due to his failure to appear at the August 10, 2017 hearing.¹ On September 18, 2017, claimant filed a timely application for review of Hearing Decision 17-UI-91693 with the Employment Appeals Board (EAB). On September 27, 2017, ALJ Kangas issued Hearing Decision 17-UI-93401, denying claimant's request to reopen.

Jurisdictional Issue. Although Hearing Decision 17-UI-93401 purported to vacate Hearing Decision 17-UI-91693,² OAH decided on or before August 31, 2017 to deny claimant's request to reopen the August 10, 2017 hearing on decision # 145032, and Hearing Decision 17-UI-91693 effectively did so. We therefore construe claimant's application for review of Hearing Decision 17-UI-91693 as a timely appeal of OAH's decision to deny his request for a reopening, and therefore as an application for review of Hearing Decision 17-UI-93401, by which OAH served notice of that decision.

EAB reviewed the entire hearing record. On de novo review and pursuant to ORS 657.275(2), Hearing Decision 17-UI-93401 is **adopted**.

¹ Hearing Decision 17-UI-93401 at 1.

² *Id.*

DECISION: Hearing Decision 17-UI-93401 is affirmed. *Decisión de la Audiencia 17-UI-93401 queda confirmada.*

DATE of Service: October 2, 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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NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de notificación indicada arriba. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la Corte de Apelaciones de Oregon, Sección de Registros (Oregon Court of Appeals/Records Section), 1163 State Street, Salem, Oregon 97310 o visite el sitio web en courts.oregon.gov. En este sitio web, hay información disponible en español.

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