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BYE: 201750

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

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EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1177

Affirmed
Request for Hearing Allowed
Overpayment Assessed

PROCEDURAL HISTORY: On March 22, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant is not eligible for benefits from December 18, 2016 through January 7, 2017 because he did not actively seek working during that period (decision # 80735). On April 11, 2017, decision # 80735 became final without claimant having filed a request for hearing. On May 2, 2017, the Department served notice of an administrative decision based on decision # 80735, concluding that claimant was overpaid \$693 in benefits that he must repay the Department (decision # 83009). Claimant filed a request for hearing on decision # 83009. On August 10, 2017, ALJ Kangas issued Hearing Decision 17-UI-90105, dismissing claimant's request for hearing on decision # 83009 as untimely, subject to claimant's right to renew his request by responding to an appellant questionnaire by August 24, 2017. On August 22, 2017, claimant filed a timely response to the appellant questionnaire. On August 29, 2017, the Office of Administrative Hearings (OAH) cancelled Hearing Decision 17-UI-90105, and on September 6, 2017 scheduled a hearing for September 19, 2017. On September 19, 2017, ALJ Frank conducted a hearing, and on September 21, 2017 issued Hearing Decision 17-UI-93013, allowing claimant's request for hearing on decision # 83009 as timely filed, and affirming that decision. On October 6, 2017, claimant filed a timely application for review of Hearing Decision 17-UI-93013 with the Employment Appeals Board (EAB).

EAB considered the entire hearing record and claimant's written argument to the extent it was relevant and based on the hearing record. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Hearing Decision 17-UI-93013 is affirmed.

J. S. Cromwell and D. P. Hettle.

DATE of Service: November 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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