

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-1348

Affirmed
Ineligible

PROCEDURAL HISTORY: On February 2, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from December 25, 2016 through January 7, 2017 (decision # 123527). On February 22, 2017, decision # 123527 became final without claimant having filed a request for hearing. On October 4, 2017, claimant filed a late request for hearing. On October 10, 2017, ALJ Kangas issued Hearing Decision 17-UI-94109, dismissing claimant's request for hearing subject to his right to renew the request by filing a response to an appellant questionnaire by October 24, 2017. Claimant filed a timely response to the appellant questionnaire. On October 24, 2017, the Office of Administrative Hearings (OAH) cancelled Hearing Decision 17-UI-94109, and on October 25, 2017 scheduled a hearing for November 8, 2017. On November 8, 2017, ALJ Wyatt conducted a hearing, and on November 15, 2017 issued Hearing Decision 17-UI-96869, allowing claimant's request for hearing on decision # 123527 and affirming that decision. On November 20, 2017, claimant filed an application for review of Hearing Decision 17-UI-96869 with the Employment Appeals Board (EAB).

With his application for review, claimant submitted written argument asserting, "[Y]ou got it wrong. Debit card wasn't issued until 1-19-17." However, that assertion is not relevant to EAB's determination of the only issues before it, whether claimant's late request for decision # 123527 should have been allowed and, if so, whether claimant actively sought work from December 25, 2016 through January 7, 2017. EAB therefore did not consider claimant's written argument when reaching this decision. *See* ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006). Even if we had, the weeks at issue were not paid by debit card, so the date claimant's debit card was issued, which was after the weeks at issue, does not change the outcome of this decision.

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 17-UI-96869 is affirmed.

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

DATE of Service: December 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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