

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0029

Affirmed
Requests to Reopen Denied

PROCEDURAL HISTORY: On April 27, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from February 12, 2017 to April 15, 2017 (decision # 75313). On May 17, 2017, decision # 75313 became final without claimant having filed a timely request for hearing. On June 2, 2017, the Department served notice of another administrative decision, based upon decision # 75313, concluding that claimant was overpaid \$2,268 that he was liable to repay to the Department (decision # 102834). On June 6, 2017, claimant filed a late request for hearing on decision # 75313 and a timely request for hearing on decision # 102834.

On July 3, 2017, the Office of Administrative Hearings (OAH) mailed notice of two hearings, one on decision # 75313 scheduled for July 19, 2017 at 9:30 a.m., and the other on decision # 102834 scheduled for July 19, 2017 at 10:45 a.m. Claimant failed to appear at both hearings. On July 19, 2017, ALJ Seideman issued Hearing Decision 17-UI-88344, dismissing claimant's request for hearing on decision # 102834 for failure to appear, and Hearing Decision 17-UI-88348, dismissing claimant's request for hearing on decision # 75313 for failure to appear. On August 7, 2017, claimant filed a request to reopen both July 19th hearings.

On September 18, 2017, OAH mailed notice of two hearings on claimant's requests to reopen, one on decision # 74313 scheduled for October 5, 2017 at 9:30 a.m., and one on decision # 102834 scheduled for 10:45 a.m. Claimant failed to appear at both hearings. On October 5, 2017, ALJ Seideman issued Hearing Decision 17-UI-93906, dismissing claimant's request to reopen the hearing on decision # 102834, and Hearing Decision 17-UI-93936, dismissing claimant's request to reopen the hearing on decision # 74313. On December 13, 2017, claimant filed late applications for review of both decisions that, pursuant to OAR 471-041-0060(4), were construed as late requests to reopen the October 5, 2017 hearings.

On December 19, 2017, ALJ Kangas considered claimant's requests to reopen and issued Hearing Decision 17-UI-99331, denying claimant's request to reopen the hearing on decision # 102834, and Hearing Decision 17-UI-99334, denying claimant's request to reopen the hearing on decision # 75313.

On January 8, 2018, claimant filed applications for review of Hearing Decisions 17-UI-99331 and 17-UI-99334 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 17-UI-99331 and 17-UI-99334. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0028 and 2018-EAB-0029).

EAB reviewed both hearing records. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 17-UI-99331 and 17-UI-99334 are affirmed.

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

DATE of Service: January 25, 2018

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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