

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0081

Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On March 24, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 114001). On March 27, 2017, the Department served notice of another administrative decision, based in part upon decision # 114001, concluding that claimant was overpaid \$14,742.00 that he was required to repay, and assessing a \$2,211.30 monetary penalty and 52 penalty weeks (decision # 193943). On April 13, 2017, decision # 114001 became final without claimant having filed a timely request for hearing. On April 17, 2017, decision # 193943 became final without claimant having filed a timely request for hearing. On November 9, 2017, claimant filed late requests for hearing on both decisions. On November 15, 2017, ALJ Kangas reviewed claimant's requests and issued Hearing Decision 17-UI-96874, dismissing claimant's late request for hearing on decision # 114001, and Hearing Decision 17-UI-96873, dismissing claimant's late request for hearing on decision # 193943, both decisions subject to his right to renew the requests by responding to an appellant questionnaire by November 29, 2017. On November 27, 2017, the Office of Administrative Hearings (OAH) received claimant's response. On November 29, 2017, OAH mailed letters to claimant stating that Hearing Decisions 17-UI-96874 and 17-UI-96873 were canceled. On December 20, 2017, ALJ R. Frank conducted a consolidated hearing, and on January 5, 2018 issued Hearing Decision 18-UI-100337, re-dismissing claimant's late request for hearing on decision # 193943, and Hearing Decision 18-UI-100338, re-dismissing claimant's late request for hearing on decision # 114001. On January 22, 2018, claimant filed applications for review of both decisions with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 18-UI-100337 and 18-UI-100338. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-0081 and 2018-EAB-0082).

EAB reviewed the hearing records in their entirety, as well as claimant's written argument to the extent it was relevant and based upon the hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decisions under review are **adopted**.

DECISION: Hearing Decisions 18-UI-100337 and 18-UI-100338 are affirmed.

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

DATE of Service: February 6, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.