

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0142**

*Affirmed*  
*Overpayment*

**PROCEDURAL HISTORY:** On November 9, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work from September 24 through October 7, 2017 (decision # 144736). On November 29, 2017, decision # 144736 became final without claimant having filed a request for hearing. On December 12, 2017, the Department served notice of an administrative decision, based on decision # 144736, concluding that claimant was overpaid \$276 in benefits that he must repay the Department (decision # 111116). Claimant filed a timely request for hearing on decision # 111116. On January 26, 2018, ALJ Wyatt conducted a hearing on decision # 111116, and claimant filed a late request for hearing on decision # 144736. On January 31, 2018, ALJ Kangas issued Hearing Decision 18-UI-102093, dismissing claimant's request for hearing on decision # 144736 subject to claimant's right to renew his request by filing a response to an appellant questionnaire by February 14, 2018. On February 2, 2018 ALJ Wyatt issued Hearing Decision 18-UI-102397, affirming decision # 111116. On February 6, 2018, claimant filed a timely response to the appellant questionnaire attached to Hearing Decision 18-UI-102093. On February 9, 2018, claimant filed a timely application for review of Hearing Decision 18-UI-102397 with the Employment Appeals Board (EAB). On February 15, 2017, the Office of Administrative Hearings (OAH) cancelled and vacated Hearing Decision 18-UI-102093, and on February 28, 2018 scheduled a hearing on claimant's late request for hearing on decision # 144736 and, if appropriate, the merits of decision # 144736, for March 14, 2018.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), Hearing Decision 18-UI-102397 is **adopted**.<sup>1</sup>

**DECISION:** Hearing Decision 18-UI-102397 is affirmed.

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

<sup>1</sup> However, EAB will reconsider this decision if claimant's late request for hearing on decision # 144736 ultimately is allowed, and decision # 144736 reversed.

**DATE of Service: March 1, 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](http://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.