

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0253

Affirmed
Late Request for Hearing Dismissed
Overpayment Assessed

PROCEDURAL HISTORY: On October 16, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 150443). On November 6, 2017, decision # 150443 became final without claimant having filed a request for hearing. On November 20, 2017, the Department served notice of an administrative decision, based on decision # 150443, concluding that claimant was overpaid \$552 in benefits that he must repay the Department (decision # 131059). On November 29, 2017, claimant filed a late request for hearing on decision # 150443 and a timely request for hearing on decision # 131059. On February 22, 2018, ALJ Frank conducted hearings, and on February 23, 2018 issued Hearing Decision 18-UI-103842 dismissing claimant's late request for hearing on decision # 150443, and Hearing Decision 18-UI-103881 affirming decision # 131059. On March 7, 2018, claimant filed timely applications for review of Hearing Decisions 18-UI-103842 and 18-UI-103881 with the Employment Appeals Board (EAB).

EAB considered both hearing records and claimant's written argument to the extent it was based on the hearing records and relevant to the only issues before EAB, whether claimant's late request for hearing on decision # 150443 is subject to dismissal, and whether claimant therefore must repay the \$552 in benefits he was paid by the Department.

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

DECISION: Hearing Decisions 18-UI-103842 and 18-UI-103881 are affirmed.

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

DATE of Service: April 2, 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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