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State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

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<p>EMPLOYMENT APPEALS BOARD DECISION 2018-EAB-0473</p>
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Affirmed
Late Requests for Hearing Dismissed

PROCEDURAL HISTORY: On November 28, 2017, the Oregon Employment Department (the Department) served two notices of two administrative decisions, one concluding claimant voluntarily left work with the employer without good cause (decision # 124005), and the other concluding claimant was not available for work from February 19, 2017 to September 30, 2017 (decision # 122236). On November 29, 2017, the Department served notice of another administrative decision assessing a \$9,412 overpayment, \$2,823.60 monetary penalty and 52 penalty weeks (decision # 200333). On December 18, 2017, decisions # 124005 and 122236 became final without claimant having filed a timely request for hearing; on December 19, 2017, decision # 200333 became final. On April 4, 2018, claimant filed a late request for hearing on all three decisions. On April 9, 2018, ALJ Kangas issued Order No. 18-UI-106948, dismissing claimant's late request for hearing on decision # 122236, Order No. 18-UI-106949, dismissing claimant's late request for hearing on decision # 124005, and Order No. 18-UI-106947, dismissing claimant's late request for hearing on decision # 200333; all three dismissals gave claimant the right to renew his requests by responding to an appellant questionnaire by April 23, 2018. On April 13, 2018, claimant responded to the questionnaire regarding decision # 200333. On April 16, 2018, claimant responded to the questionnaire regarding decision # 124005. ALJ Kangas reviewed claimant's responses. On April 28, 2018, the ALJ issued Order No. 18-UI-107666, re-dismissing claimant's late request for hearing on decision # 124005. On April 19, 2018, the ALJ issued Order No. 18-UI-107754, re-dismissing claimant's late request for hearing on decision # 200333. On May 3, 2018, claimant filed applications for review of both Orders with the Employment Appeals Board (EAB), and responded to the questionnaire regarding decision # 122236. On May 7, 2018, ALJ Kangas issued a letter decision stating that claimant's questionnaire response regarding decision # 122236 was late and would not be considered, and the dismissal order issued previously remained in effect. On May 10, 2018, claimant requested review of that matter by EAB.

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Order Nos. 18-UI-106948, 18-UI-107666 and 18-UI-107754. For case-tracking purposes, this decision is being issued in triplicate (EAB Decisions 2018-EAB-0472, 2018-EAB-0473, and 2018-EAB-0484).

Claimant failed to certify that he provided a copy of his argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented him from offering the information into the hearing record as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2). We note, however, that even if we had been able to consider claimant's argument and additional information the outcome of these cases would remain the same because it appears from claimant's argument and questionnaire responses that the primary reason for his late requests for hearing were his failure to understand the implications of the documents the Department mailed to him, and, as the ALJ explained, failing to understand the implications of documents is specifically excluded from the definition of good cause.

EAB reviewed the hearing records in all three matters. On *de novo* review and pursuant to ORS 657.275(2), the Orders under review are **adopted**.

DECISION: Order Nos. 18-UI-106948, 18-UI-107666 and 18-UI-107754 are affirmed.

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

DATE of Service: May 11, 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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