

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

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0523

Affirmed
Overpayment Assessed

PROCEDURAL HISTORY: On March 13, 2018, the Department served notice of an administrative decision concluding that due to an error in reported earnings, claimant was over \$187 in benefits she is required to repay (decision # 200536). Claimant filed a timely request for hearing. On May 2, 2018, ALJ Frank conducted a hearing, and on May 10, 2018, issued Order No. 18-UI-109113, affirming the Department's decision. On May 17, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted a written argument with her application for review. In her argument, claimant asserted that the hearing proceedings were unfair because the ALJ "would not let me tell my side of the story" and "only would let me ask questions..." Written Argument at 1. We reviewed the hearing record in its entirety, which shows that the ALJ inquired fully into the matters at issue and gave all parties reasonable opportunity for a fair hearing, including an opportunity for claimant to testify on her own behalf and cross examine the Department's witness, as required by ORS 657.270(3) and OAR 471-040-0025(1) (August 1, 2004). In her argument, claimant also asserted that, after the hearing, she received new information from General Credit Service Inc. (GCS) showing that she accurately reported the hours she worked for that employer during week 48-17. However, claimant did not assert or show that GCS inaccurately reported what it paid her for her work during week 48-17, and whether or not it overpaid her for the hours she actually worked is immaterial because claimant received the earnings, and accordingly was not entitled to the benefits she received for that week and is liable to repay them. Also, at hearing, the Department's witness made it clear that the Department was not asserting that claimant intentionally misrepresented her earnings for the week and for that reason did not seek to impose a penalty.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

DECISION: Order No. 18-UI-109113 is affirmed.

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

DATE of Service: June 15, 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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