

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1024

Reversed & Remanded

PROCEDURAL HISTORY: On September 19, 2018, the Oregon Employment Department (the Department) served notice of two administrative decisions concluding that claimant did not actively seek work from August 19 through 25, 2018 (decision # 83941) and was not able to work from August 19 through 25, 2018 (decision # 84215). Claimant filed timely requests for hearing on both decisions. On October 17, 2018, ALJ Wyatt issued Orders No. 18-UI-118253 and No. 18-UI-118255, dismissing claimant's requests for hearings on decisions # 83941 and # 84215. On October 22, 2018, claimant filed applications for review of Orders No. 18-UI-118253 and No. 18-UI-118255 with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Orders No. 18-UI-118253 and No. 18-UI-118255. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2018-EAB-1025 and 2018-EAB-1024).

CONCLUSIONS AND REASONS: Orders No. 18-UI-118253 and No. 18-UI-118255 are reversed as unsupported by the hearing records, and these matters remanded to the Office of Administrative Hearings (OAH) for additional proceedings.

In Orders No. 18-UI-118253 and No. 18-UI-118255, the ALJ dismissed claimant's requests for hearings on decisions # 83941 and # 84215 pursuant to ORS 657.270 and OAR 471-040-0035, asserting that on October 16, 2018, a Department representative "canceled or amended" the decisions, thereby resolving the issues.¹ However, the hearing records contain no evidence supporting the ALJ's finding that the Department canceled or amended decisions # 83941 and # 84215. Orders No. 18-UI-118253 and No. 18-UI-118255 therefore are reversed as unsupported by the hearing records, and these matters remanded to OAH for additional proceedings.

DECISION: Orders No. 18-UI-118253 and No. 18-UI-118255 are set aside, and these matters remanded for further proceedings consistent with this order.

¹ Orders No. 18-UI-118253 and No. 18-UI-118255 at 1.

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

DATE of Service: November 2, 2018

NOTE: The failure of any party to appear at the hearing on remand will not reinstate Orders No. 18-UI-118253 or No. 18-UI-118255 or return these matters to EAB. Only a timely application for review of the subsequent Orders will cause these matters to return to EAB.

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