

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-1045

Affirmed
Request to Reopen Denied

PROCEDURAL HISTORY: On February 1, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant willfully made a misrepresentation and failed to report a material fact to obtain benefits, and assessing a \$752 overpayment (without penalties) (decision # 200311). On February 6, 2018, claimant filed a timely request for hearing. On March 7, 2018, the Office of Administrative Hearings (OAH) mailed notice of a hearing scheduled for 9:30 a.m. on March 21, 2018, at which time claimant failed to appear. On March 21, 2018, ALJ Wyatt issued Order No. 18-UI-105615, dismissing claimant's hearing request for failure to appear. On April 10, 2018, Order No. 18-UI-105615 became final without claimant having filed a timely request to reopen the hearing. On July 10, 2018, claimant filed a request to reopen the hearing. On July 27, 2018, ALJ Kangas considered claimant's reopen request and issued Order No. 18-UI-113242, denying the request. On July 27, 2018, claimant filed an application for review of Order No. 18-UI-113242 with the Employment Appeals Board (EAB). On August 9, 2018, EAB issued Appeals Board Decision 2018-EAB-0748, reversing Order No. 18-UI-113242 and remanding the case to OAH. On August 10, 2018, OAH mailed notice of a hearing scheduled for 10:45 a.m. on August 28th, at which time claimant failed to appear. On September 5, 2018, ALJ Wyatt issued Order No. 18-UI-116064, dismissing claimant's request to reopen for failure to appear at the August 28th hearing. On September 11, 2018, claimant filed an application for review of Order No. 18-UI-116064 with EAB. On October 3, 2018, EAB issued Appeals Board Decision 2018-EAB-0893, reversing Order No. 18-UI-116064 and remanding the case to OAH. On October 18, 2018, ALJ Wyatt conducted a hearing, and on October 31, 2018 issued Order No. 18-UI-118971, denying claimant's request to reopen the August 28, 2018 hearing. On November 3, 2018, claimant filed an application for review of Order No. 18-UI-118971 with EAB.

Claimant failed to certify that she provided a copy of her 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 was not relevant to the matter before EAB for consideration, which is whether or not claimant's August 28th hearing should be reopened. We therefore considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

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

DECISION: Order No. 18-UI-118971 is affirmed.

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

DATE of Service: November 16, 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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