

EMPLOYMENT APPEALS BOARD DECISION

2014-EAB-0189

Affirmed
Ineligible

PROCEDURAL HISTORY: On November 7, 2013, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work from September 29 through October 5, 2013 (decision # 95659). Claimant filed a timely request for hearing. On January 7, 2014, ALJ Sime conducted a hearing, and on January 13, 2014, issued Hearing Decision 14-UI-08439, affirming the Department's decision. On January 28, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

With his application for review, claimant submitted, and asked EAB to consider, a document that is not part of the hearing record. However, claimant failed to show that factors or circumstances beyond his reasonable control prevented him from offering the document into evidence during the hearing. Under ORS 657.275(2) and OAR 471-041-0090 (October 29, 2006), we considered only information received into evidence at the hearing when reaching this decision.

FINDINGS OF FACT: (1) Claimant claimed benefits for the week of September 29 through October 5, 2013 (week 40-13), the week at issue.

(2) Claimant lived in Gold Beach, Oregon and worked for Meyer Brothers Roofing (the employer) in Brookings, Oregon. The employer scheduled claimant to work on September 30, 2013. Claimant did not report for work that day because he believed that, due to the rainy weather, there would not be enough work available to be worth his commute. Claimant there missed seven hours of work.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant was not available for work during the week at issue.

To be eligible to receive benefits, unemployed individuals must be available for work during each week claimed. ORS 657.155(1)(c). An individual must meet certain minimum requirements to be considered

“available for work” for purposes of ORS 657.155(1)(c). OAR 471-030-0036(3) (January 8, 2006). Among those requirements are that the individual not impose conditions which substantially limit the individual’s opportunities to return to work at the earliest possible time. *Id.* In failing to report for work as scheduled on September 30, 2013, claimant imposed a condition that negated an opportunity to work seven hours. He therefore was not available for work during the week at issue, and is ineligible for benefits for that week.

DECISION: Hearing Decision 14-UI-08439 is affirmed.

Tony Corcoran and D. E. Larson;
Susan Rossiter, not participating.

DATE of Service: February 26, 2014

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 website at <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Note: the above link may be broken due to unannounced changes to the Court of Appeals website, in which case you may contact the Appellate Records at (503) 986-5555.

NOTA: Usted puede apelar esta decisión presentando una solicitud de revisión judicial ante el Tribunal de Apelaciones de Oregon dentro de los 30 días siguientes a la fecha de notificación enumerados anteriormente. Ver ORS 657.282. Para obtener formularios e información, puede escribir a la (Oregon Court of Appeals, Records Section) Corte de Apelaciones de Oregon, Sección de Registros, 1163 State Street, Salem, Oregon 97310, o visitando el sitio en el Internet en <http://courts.oregon.gov/OJD/OSCA/acs/records/AppellateCourtForms.page>.

Nota: el vínculo anterior puede no funcionar debido a cambios sin previo aviso al sitio en el Internet de la Corte de Apelaciones, dándose el caso puede ponerse en contacto con el Registro de Apelaciones (Appellate Records) al (503) 986-5555.