

EMPLOYMENT APPEALS BOARD DECISION
2014-EAB-0883

Affirmed
Ineligible

PROCEDURAL HISTORY: On January 29, 2014, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from December 22, 2013 through January 4, 2014 (decision # 95221). Claimant filed a timely request for hearing. On May 8, 2014, ALJ Seideman conducted a hearing, and on May 16, 2014 issued Hearing Decision 14-UI-17820, affirming the Department's decision. On May 20, 2014, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant submitted written argument to EAB. Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information 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 weeks from December 22, 2013 through January 4, 2014 (weeks 52-13 and 1-14), the weeks at issue. The Department initially paid, then denied, claimant benefits for those weeks.

(2) The Department designated claimant's labor market as Florence, Oregon. During the weeks at issue, claimant sought work as a training and development specialist, office clerk, and administrative support worker.

(3) On December 23, 2013, the Department sent claimant an advisement stating that she must make two or more employer contacts in her labor market each week. The employer contacts were to be new contacts unless claimant had reason to believe a prior contact might have a new job opportunity. Audio Record ~ 12:00 to 12:51. Claimant was advised to keep good written records of her employer contacts.

(4) During week 52-13, claimant applied for two jobs located in "USA" that were not in Florence.

(5) During week 1-14, claimant applied for a job with Oregon Emergency Management in Coos Bay, Oregon, and another in “USA” that was not in Florence.

(6) Claimant was not outside her labor market during the weeks at issue.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant is ineligible for benefits for the weeks at issue.

To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c). For purposes of ORS 657.155(1)(c), an individual is actively seeking work when doing what an ordinary and reasonable person would do to return to work at the earliest opportunity. OAR 471-030-0036(5)(a) (February 23, 2014). With few exceptions, none of which apply here, an individual is required to conduct at least five work seeking activities per week, with at least two of those being direct contact with an employer who might hire the individual, unless otherwise directed by the Department. *Id.* An individual's normal labor market shall be that geographic area, defined by the Department, that surrounds the individual's permanent residence within which employees in similar circumstances are generally willing to commute to seek and accept the same type of work at a comparable wage. OAR 471-030-0036(6).

The Department directed claimant to make two new employer contacts within her labor market per week. We agree that an ordinary and reasonable person seeking to return to work at the earliest opportunity would make at least two new employer contacts per week. Claimant made two new employer contacts each week at issue. However, the contacts were not within her labor market. Claimant testified at hearing that she did not consider Florence, Oregon as her labor market, because she had never worked in Florence. Audio Record ~ 7:11 to 7:22. However, OAR 471-030-0036(6) provides that the Department, and not the individual, defines the geographic area comprising the individual's labor market. Because the Department defined claimant's labor market area as Florence, claimant's labor market was Florence for purposes of eligibility under ORS 657.155(1)(c). Because claimant did not make two new employer contacts within her labor market per week, she was not actively seeking work during the weeks at issue.

Claimant was not actively seeking work as required by ORS 657.155(1)(c) during weeks 52-13 and 1-14. She is not eligible to receive unemployment insurance benefits for those weeks.

DECISION: Hearing Decision 14-UI-17820 is affirmed.

Susan Rossiter and Tony Corcoran;
J. S. Cromwell, not participating.

DATE of Service: July 1, 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 court.oregon.gov. Once on the website, click on the blue tab for “Materials and Resources.” On the next screen, click on the tab that reads “Appellate Case Info.” On

the next screen, select “Appellate Court Forms” from the left panel. On the next page, select the forms and instructions for the type of Petition for Judicial Review that you want to file.

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