

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-0925

Affirmed
Ineligible

PROCEDURAL HISTORY: On June 11, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from May 10 through 30, 2015 (decision # 101904). Claimant filed a timely request for hearing. On July 6, 2015, ALJ S. Lee conducted a hearing, and on July 13, 2015 issued Hearing Decision 15-UI-41419, affirming the Department's decision. On August 3, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On January 26, 2015, claimant filed an initial claim for benefits. On May 20, 2015, claimant restarted his unemployment insurance claim. Claimant claimed benefits for the weeks from May 10 through 30, 2015 (weeks 19-15 through 21-15), the weeks at issue.

(2) Prior to May 9, 2015, claimant's regular employer, Nth Degree Inc., notified claimant that when his current work assignment ended, he would return to work at the end of May or beginning of June 2015. However, claimant was not given a date to return to work.

(3) On May 9, 2015, claimant's work assignment ended and he was laid off until his expected return to work at the end of May or beginning of June 2015. Claimant still was not given a date to return to work.

(4) Claimant was not given a date to return to work for Nth Degree Inc. until after he restarted his unemployment insurance claim on May 20, 2015.

(5) During the weeks at issue, claimant did not conduct any work seeking activities other than remaining in contact with and being capable of accepting and reporting for work with his regular employer.

CONCLUSIONS AND REASONS: We agree with the Department and the ALJ that claimant did not actively seek work during the week at issue.

To be eligible to receive benefits, unemployed individuals must 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). Individuals typically are “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.” *Id.*

However, for an individual on temporary layoff of four weeks or less with the individual’s regular employer, if the individual had, as of the layoff date, been given a date to return to full-time work or work for which remuneration is paid or payable that equals or exceeds the individual’s weekly benefit amount, such individual is actively seeking work by remaining in contact with and being capable of accepting and reporting for any suitable work with that employer for a period of up to four calendar weeks following the end of the week in which the temporary layoff occurred. OAR 471-030-0036(5)(b)(A). The individual does not meet the requirements of OAR 471-030-0036(5)(b)(A) if the individual had not, as of the layoff date, been given a date to return to full-time work or work for which remuneration is paid or payable that equals or exceeds the individual’s weekly benefit amount. OAR 471-030-0036(5)(b)(B).

In the present case, claimant did not conduct any work seeking activities during the weeks at issue other than remaining in contact with and being capable of accepting and reporting for work with his regular employer. Claimant therefore did not actively seek work under OAR 471-030-0036(5)(a). Although claimant was on temporary layoff of four weeks or less with his regular employer, he had not, as of the layoff date, been given a date to return to work. Claimant therefore did not actively seek work under OAR 471-030-0036(5)(b).

Claimant did not actively seek work during the weeks at issue, and therefore is not eligible for benefits for those weeks.

DECISION: Hearing Decision 15-UI-41419 is affirmed.

Susan Rossiter and J. S. Cromwell.

DATE of Service: September 9, 2015

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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