

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1136

Affirmed
Ineligible

PROCEDURAL HISTORY: On June 26, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not eligible for benefits for the week of June 7 through 13, 2015 because he failed to participate in a Reemployment and Eligibility Assessment (REA). Claimant filed a timely request for hearing. On July 14, 2015, OAH issued notice of a hearing scheduled for July 28, 2015. On July 28, 2015, ALJ S. Lee issued Hearing Decision 15-UI-42071, dismissing the claimant's request for hearing for failure to appear. On August 17, 2015, claimant filed a request to reopen the hearing that included a statement explaining why he failed to appear at the hearing.

On August 18, 2015, OAH issued notice of a hearing scheduled for September 3, 2015. On September 3, 2015, ALJ Frank conducted a hearing, and on September 11, 2015, issued Hearing Decision 15-UI-44268, concluding claimant had shown good cause for failing to appear at the July 28, 2015 hearing, allowing claimant's request to reopen the hearing, cancelling Hearing Decision 15-UI-42071, but concluding claimant was not eligible for benefits for the weeks of June 7 through July 4, 2015 (weeks 23-15 through 26-15) because he failed to participate in a Reemployment and Eligibility Assessment (REA). On September 29, 2015, claimant filed an application for review of Hearing Decision 15-UI-42071 with the Employment Appeals Board (EAB).

No adversely affected party requested review of that portion of Hearing Decision 15-UI-42071 allowing claimant's request to reopen and cancelling Hearing Decision 15-UI-42071. Therefore, we limit our review to whether claimant is eligible for benefits for the weeks of June 7 through July 4, 2015 (weeks 23-15 through 26-15).

FINDINGS OF FACT: (1) On April 24, 2015, claimant filed an initial claim for unemployment insurance benefits. Claimant filed weekly claims for benefits for the weeks of June 7 through July 4, 2015 (weeks 23-15 through 26-15), the weeks at issue.

(2) On June 1, 2015, the Department mailed to claimant's address of record a notice stating he was required to complete a "Reemployment Eligibility Assessment" 2 (REA2) process by telephone no later than June 12, 2015. The notice notified claimant of the telephone number he was to call to engage and complete the process and that his failure to do so on or before June 12 would result in a denial of benefits. The letter was delivered to a "box" claimant designated for delivery of his mail and shared with his family. Audio Record ~ 38:25 to 41:00. Claimant did not regularly check or retrieve his mail from his designated mail box unless his family notified him that he had mail.

(3) Claimant did not engage in or complete the required REA2 process by June 12, 2015. On June 16 and June 24, 2015, the Department mailed to claimant's address of record "suspense" letters notifying him that payment of benefits had been and would remain suspended unless he completed the required REA2 process. Audio Record ~ 38:25 to 41:00. At the end of June, claimant became aware he had not been receiving benefit payments, took steps to retrieve his mail from his designated mail box, reviewed the June 1, 16 and 24 letters from the Department, and learned why payment of benefits had been suspended. On July 7, 2015, claimant contacted the Department and completed the required REA2 process in a single telephone call.

CONCLUSIONS AND REASONS: We agree with the ALJ. Claimant is ineligible for benefits for the weeks of June 7 through July 4, 2015 (weeks 23-15 through 26-15) because he failed to complete a required REA2 process.

An unemployed individual is eligible for benefits if, among other requirements, the individual has "registered for work at and thereafter has continued to report at an employment office in accordance with such rules as the director may prescribe." ORS 657.155(1)(a). To satisfy this requirement, when requested by the Department, an individual must submit information to an authorized representative about the individual's job qualifications, skills training and experience when the information is deemed necessary to carry out job placement services. OAR 471-030-0035(2) (December 25, 2005). As part of this process, the Department may require individuals to engage in and complete a REA2 process to assist the Department in assessing a claimant's work history, job skills and related employment information. However, that requirement may be waived or altered when compliance with the requirement "would be oppressive." ORS 657.155(1)(a).

We agree with the ALJ that the Department's requirement that claimant engage in and complete a REA2 process by telephone and by June 12, 2015 was not "oppressive" under ORS 657.155(1)(a). Hearing Decision 15-UI-42071 at 4. Had claimant simply checked his designated mail box and made a single phone call to the Department by June 12, 2015, his benefits would not have been suspended.

Claimant failed to report to the Department in accordance with its rules, which were not oppressive as applied to claimant, until July 7, 2015. Consequently, claimant is ineligible for benefits for the weeks of June 7 through July 4, 2015 (weeks 23-15 through 26-15).

DECISION: Hearing Decision 15-UI-44268 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: October 20, 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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