

EMPLOYMENT APPEALS BOARD DECISION
2015-EAB-1484

Affirmed
Ineligible

PROCEDURAL HISTORY: On October 21, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from September 27, 2015 to October 17, 2015 (decision # 75243). Claimant filed a timely request for hearing. On November 25, 2015, ALJ L. Lee conducted a hearing, and on December 1, 2015 issued Hearing Decision 15-UI-48502, concluding claimant was not available for work from September 27, 2015 to November 21, 2015. On December 9, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

At the hearing, and in her written argument, claimant explained that she was appealing the Department's decision denying her benefits based on her unavailability due to school attendance because she disagreed with the decision. However, claimant did not dispute the basic facts of this case, specifically, that she attended school during the customary hours for day shift work, that she sought work that is customarily performed during hours that include the day shift, or that she was not willing to stop her schooling or drop classes in order to accept work. It appears, rather, her disagreement is with the law and rules that would either have her leave school in favor of work in order to establish her eligibility for unemployment insurance benefits, or deny her the financial assistance she needs to support herself while in school.

Unfortunately, the law and rules applicable to claimant's case are clear: in order to be eligible for unemployment insurance benefits claimants must be "available" for work (ORS 657.155(1)(c)), and "available" means that the claimant must be willing to work during *all* of the usual hours and days of the week customary for the work being sought (OAR 471-030-0036(3)(a)), which, in claimant's case, include the hours during which her classes were scheduled. The laws and rules set forth in ORS chapter 657 and OAR chapter 471 that govern unemployment insurance benefit eligibility do not contain any exception for individuals who are, like claimant, attending college "just trying to get my life together and have a better future" by attending college. Transcript at 27. For those reasons, claimant must be found ineligible for unemployment insurance benefits.

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

DECISION: Hearing Decision 15-UI-48502 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: December 28, 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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