

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0004

Affirmed
Ineligible

PROCEDURAL HISTORY: On October 14, 2015, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 93644) concluding claimant did not actively seek work from August 30, 2015 to October 10, 2015 (weeks 35-15 through 40-15). Claimant filed a timely request for hearing. On December 4, 2015, ALJ Vincent conducted a hearing, and on December 11, 2015 issued Hearing Decision 15-UI-49238, affirming the Department's decision. On December 31, 2015, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant's argument contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond his reasonable control prevented him 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. Even if we had, our decision would remain the same. Claimant's written argument contained information about his work search activities during the weeks at issue. We note, however, that claimant testified at the hearing that he did not have or keep work search records establishing what work search activities he did during each individual week in question. Claimant failed to explain where the records he provided with his argument came from or when he made them, making the records unreliable as contemporaneously kept evidence of his work search activities during the weeks at issue. Given that he also did not explain why he could not have offered the same information, in the same amount of detail, into evidence during the hearing that was specifically held for the purpose of determining whether claimant actively sought work during the weeks at issue, EAB did not consider claimant's new information.

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-49238 is affirmed.

Susan Rossiter and J. S. Cromwell

DATE of Service: January 11, 2016

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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