

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0602

Affirmed
Ineligible

PROCEDURAL HISTORY: On March 25, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from January 10 through March 19, 2016 (decision # 83154). Claimant filed a timely request for hearing. On May 9, 2016, ALJ R. Frank conducted a hearing, and on May 16, 2016 issued Hearing Decision 16-UI-59655, affirming the Department's decision. On May 23, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On January 11, 2016, claimant filed an initial claim for benefits. His weekly benefit amount was \$447. Claimant claimed benefits for the weeks from January 10 through March 19, 2016 (weeks 02-16 through 11-16), the weeks at issue.

(2) Claimant's last day of work for his regular employer before the weeks at issue was Friday, February 8, 2016.

(3) During week 02-16, claimant maintained contact with and worked part-time for his regular employer, earning less than his weekly benefit amount, and contacted three other potential employers.

(4) During week 03-16, claimant maintained contact with and worked part-time for his regular employer, earning less than his weekly benefit amount, and contacted three other potential employers.

(5) During week 04-16, claimant maintained contact with his regular employer and contacted three other potential employers.

(6) During week 05-16, claimant maintained contact with and worked part-time for his regular employer, earning less than his weekly benefit amount.

(7) During week 06-16, claimant maintained contact with his regular employer.

(8) During week 07-16, claimant maintained contact with his regular employer and contacted three other potential employers.

(9) During week 08-16, claimant maintained contact with his regular employer and contacted three other potential employers.

(10) During week 09-16, claimant maintained contact with his regular employer and contacted one other potential employer.

(11) During week 10-16, claimant maintained contact with his regular employer and contacted one other potential employer.

(12) During week 11-16, claimant maintained contact with and worked part-time for his regular employer, earning less than his weekly benefit amount.

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

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, individuals 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.* "Direct contact" means "making contact with an employer . . . to inquire about a job opening or applying for job openings in the manner required by the hiring employer." OAR 471-030-0036(5)(a)(B). 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). For an individual on temporary layoff of more than four weeks with the individual's regular employer, such individual must immediately seek work consistent with the requirements of OAR 471-030-0036(5)(a). OAR 471-030-0036(5)(c).

In this case, the record fails to show that during any week at issue, claimant was on a temporary layoff of four weeks or less with his regular employer after having been given a date to return to full-time work or work for which remuneration was paid or payable that equaled or exceeded his weekly benefit amount. Claimant therefore was required to conduct at least five work seeking activities per week. He did not conduct five working seeking activities during any of the weeks at issue, and therefore is ineligible for benefits for all of those weeks.

DECISION: Hearing Decision 16-UI-59655 is affirmed.

Susan Rossiter and D. P. Hettle;
J. S. Cromwell, not participating.

DATE of Service: June 21, 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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