

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0616

Affirmed
Ineligible

PROCEDURAL HISTORY: On April 5, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from March 13, 2016 to April 2, 2016 (decision # 151633). Claimant filed a timely request for hearing. On May 16, 2016, ALJ M. Davis conducted a hearing, and on May 17, 2016 issued Hearing Decision 16-UI-59704, affirming the Department's decision. On May 25, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

In her written argument, claimant stated that she did not seek work while claiming unemployment insurance benefits from March 13, 2016 to April 2, 2016 because she was committed to work full time for the employer that had hired her, and she worked sporadically or was laid off during the weeks at issue. For purposes of receiving unemployment insurance benefits, however, individuals who are employed but working less than full time must actively seek work as a condition of continued eligibility for benefits, unless, in pertinent part, they are excused from seeking work because they are laid off for "four weeks or less" and have, "as of the layoff date, been given a date to return to full-time work." OAR 471-030-0036(5)(b). If the individual's layoff was for more than four weeks, or for an unspecified period of time without a return to work date, the individual must seek work in order to be eligible for benefits, even if the individual has a part time or on-call job and intends to continue that job on a full time basis in the future. Claimant argued that she had never understood that the unemployment rules required her to have a definite return to work date. That may be the case in claimant's past claims, but OAR 471-030-0036 was amended effective February 23, 2014 to include that requirement. Claimant asked that EAB understand the nature of her work, how weather, workload and other conditions can affect how much work is available to her, and to understand claimant's commitment to her employer, and, presumably, allow her benefits. Unfortunately, Oregon laws and rules governing individuals' receipt of unemployment insurance benefits do not have any exceptions that would allow claimant to receive benefits during the weeks of March 13, 2016 to April 2, 2016.

EAB reviewed the remainder of claimant's arguments and 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 16-UI-59704 is affirmed.

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

DATE of Service: June 1, 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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