

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-0988

Affirmed
Ineligible Week 20-16
Overpayment Assessed

PROCEDURAL HISTORY: On June 17, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from May 15, 2016 to May 21, 2016 (decision # 152400). On July 7, 2016, decision # 152400 became final without claimant having filed a timely request for hearing. On July 19, 2016, the Department served notice of an administrative decision based on decision # 152400 assessing a \$266 overpayment (decision # 133539). On July 29, 2016, claimant filed a late request for hearing on decision # 152400 and a timely request for hearing on decision # 133539. On August 18, 2016, ALJ Vincent conducted two hearings, and on August 22, 2016 issued Hearing Decision 16-UI-66047, allowing claimant's late request for hearing on decision # 152400 and concluding that claimant did not actively seek work during week 20-16, and Hearing Decision 16-UI-66048, affirming decision # 133539. On August 29, 2016, claimant filed applications for review of both hearing decisions with the Employment Appeals Board (EAB).

Pursuant to OAR 471-041-0095 (October 29, 2006), EAB consolidated its review of Hearing Decisions 16-UI-66047 and 16-UI-66048. For case-tracking purposes, this decision is being issued in duplicate (EAB Decisions 2016-EAB-0987 and 2016-EAB-0988).

In his written argument, claimant argued that he should not be denied benefits or assessed an overpayment because within two days of being laid off work he was asked to return to work with his regular employer the following week, and because he planned and prepared to seek work during the layoff but was scheduled to return to work before he could do so. However, the rules are clear that claimant was not exempt from actively seeking work during his layoff because he was not given a return to work date at the time of his layoff. Even though he was scheduled to return to work the following week, the rules required that claimant conduct an active work search that consisted of direct contact with two employers and three other activities as a condition of receiving unemployment insurance benefits. Claimant did not meet those work search requirements. Although he made direct contact with one employer and, according to his written argument, worked on his resume and cover letter, those activities only satisfy the part of the work search requirements. Without evidence that claimant had direct contact

with a second employer and performed two other work seeking activities, he cannot be considered to have actively sought work during the week at issue. For those reasons, and those explained in Hearing Decision 16-UI-66047, we conclude that claimant was not exempt from the active work search requirement and did not fulfill the active work search requirements during the week at issue. He was, therefore, not eligible for benefits during that week, and he was overpaid.

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

DECISION: Hearing Decisions 16-UI-66047 and 16-UI-66048 are affirmed.

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

DATE of Service: August 31, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.