

EMPLOYMENT APPEALS BOARD DECISION
2016-EAB-1041

Affirmed
Late Claims Denied

PROCEDURAL HISTORY: On August 8, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 74343) concluding that claimant failed to timely file claims for unemployment benefits for weeks 23-16 through 25-16 (June 5 through 25, 2016). Claimant filed a timely request for hearing. On August 31, 2016, ALJ Murdock conducted a hearing, and on September 1, 2016, issued Hearing Decision 16-UI-66747, affirming the administrative decision. On September 9, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB considered claimant's written argument in reaching this decision.

FINDINGS OF FACT: (1) Claimant filed an initial claim for unemployment benefits in Massachusetts, and claimed benefits for weeks 21-16 (May 22 through 28, 2016) and 22-16 (May 29 through June 4, 2016).

(2) Sometime after claimant filed his initial claim for benefits, his claim was transferred to Oregon and he was told he could no longer claim benefits in Massachusetts.

(3) On June 29, 2016, claimant called the Department and talked with a representative about a problem verifying his employment. Claimant told the representative that he would contact his employer to resolve the matter. Audio recording at 16:01.

(4) On July 6, 2016, claimant claimed unemployment benefits with the Department by telephone for weeks 23-16 through 25-16 (June 5 through 25, 2016).

CONCLUSION AND REASONS: Claimant did not file timely file continued claims for benefits for weeks 23-16 through 25-16.

Under OAR 471-030-0045(4) (February 23, 2015) a continued claim for benefits must be filed "no later than seven days following the end of the week for which benefits, waiting week credit, or non-

compensable credit, or any combination of the foregoing is claimed.” (OAR 471-030-0045(4)(a) provides an exception to this rule, which is not applicable here). Under this rule, claimant’s claims for benefits for the week ending June 11, 2016 (week 23-16), the week ending June 18, 2016 (week 24-16) and the week ending June 25, 2016 (week 25-16), which were filed on July 6, 2016, were not timely filed.

The record shows that claimant’s late filing may have been caused, in part, by possible confusion about where and how to file his claims for unemployment benefits. In addition, the Department representative with whom he spoke on June 29 apparently failed to advise him about deadlines for filing his weekly claims. Unfortunately, there are no exceptions to the rule that continued claims for unemployment benefits must be filed within seven days of the end of the week for which benefits are claimed.¹ Claimant’s claim for benefits for weeks 23-16 through 25-16 are therefore denied.

DECISION: Hearing Decision 16-UI-66747 is affirmed.

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

DATE of Service: October 10, 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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¹ Even if claimant had filed claims for benefits for weeks 23-16 through 25-16 on June 29, when he first spoke to a Department representative, only his claim for week 25-16 would have been timely filed.