

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1432**

*Affirmed*  
*Ineligible*

**PROCEDURAL HISTORY:** On October 27, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work from October 16 through 22, 2016 (decision # 104503). Claimant filed a timely request for hearing. On December 13, 2016 ALJ Vincent conducted a hearing, and on December 15, 2016 issued Hearing Decision 16-UI-72994, affirming the Department's decision. On December 20, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

EAB reviewed the entire hearing record. With his application for review claimant submitted written argument containing new information that, as of the date of his temporary layoff from work with his regular employer, he had been given a date to return to work. OAR 471-041-0090(2) (October 29, 2006) states that EAB may consider new information when the party offering the information establishes that the new information is relevant and material to EAB's determination, and that factors or circumstances beyond the party's reasonable control prevented the party from offering the information into evidence at the hearing. Here, claimant's new information is not material to EAB's determination because it is contradicted by claimant's sworn testimony at the hearing that, as of his layoff date, he had not been given a date to return to work. Audio Record at 7:10-8:45, 9:20-9:45. Nor did claimant assert that factors or circumstances beyond his reasonable control prevented him from offering contrary information into evidence at the hearing. EAB therefore did not consider claimant's new information when reaching this decision.

On *de novo* review and pursuant to ORS 657.275(2), the hearing decision under review is **adopted**.

**DECISION:** Hearing Decision 16-UI-72994 is affirmed.

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

**DATE of Service:** December 29, 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](http://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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