

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0107**

*Reversed*  
*Redetermination Allowed*

**PROCEDURAL HISTORY:** On December 12, 2016, the Oregon Employment Department (the Department) served notice of a decision denying claimant's request to add wages and hours of work to her unemployment claim. Claimant filed a timely request for hearing. On January 9, 2017, ALJ Shoemake conducted a hearing, and issued Hearing Decision 17-UI-74355, affirming the Department's December 12, 2016 decision. On January 30, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented claimant from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

**FINDINGS OF FACT:** (1) From June 15 through June 28, 2016, claimant worked 80 hours for Chock Barhoum LLP. On June 30, 2016, her pay for this work -- \$2,606.46 -- was electronically deposited into her bank account. Claimant subsequently received a paper copy of her paycheck which was dated July 1, 2016.

(2) On November 14, 2016, claimant filed an initial claim for unemployment benefits. Claimant's claim was determined to be valid, and a weekly benefit amount of \$185 was established. Claimant's base year was determined to be July 1, 2015 through June 30, 2016.

(3) On November 23, 2016, claimant filed a Request for Adjustment of Claim Determination, asking that the hours she worked and the \$2,606.46 in wages she received from Chock Barhoum be added to her claim determination. On December 12, 2016, the Department denied claimant's request on the grounds that wages were not paid to her during her base year.

**CONCLUSION AND REASONS:** We disagree with the ALJ and conclude that the wages claimant earned from Chock Barhoum should be added to claimant's claim determination.

Under ORS 657.266, the Department must promptly make an initial determination of eligibility for unemployment benefits and determine the total amount of wages paid to a claimant during the base year. A determination can be amended if the claimant provides evidence that his earnings or hours were different from the Department's initial determination. OAR 471-030-0048 (August 3, 2011). At issue here is whether the Department accurately calculated claimant's wages for her base year (July 1, 2015 through June 30, 2016) when it excluded her earnings from Chock Barhoum from her claim determination.

ORS 657.266 requires that the Department's claim determination include all wages *paid* to a claimant during the claimant's base year. "Paid" is the past tense and past participle of "pay." Relevant definitions of "pay" are: "[g]ive money that is due for work done," "[g]ive (a sum of money in exchange for goods or work done....," and "[h]and over or transfer the amount due of (a debt, wages, etc.)." <https://en.oxforddictionaries.com>. Undisputed evidence presented at the hearing demonstrated that on June 30, 2016, claimant was given money due for work she had performed for Chock Barhoum when \$2,606.46 was transferred to her bank account. Claimant was therefore paid wages from Chock Barhoum during her base year, and those wages must be added to her claim determination.

**DECISION:** Hearing Decision 17-UI-74355 is set aside, as outlined above.

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

**DATE of Service:** February 15, 2017

**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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