

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0172

Affirmed
Ineligible Weeks 25-16 through 28-16

PROCEDURAL HISTORY: On October 20, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 134435) concluding that claimant did not actively search for work from June 19 through July 16, 2016 (weeks 25-16 through 28-16). Claimant filed a timely request for hearing. On January 17, 2017, ALJ Logan conducted a hearing, and on January 24, 2017, issued Hearing Decision 17-UI-75339, affirming the administrative decision. On February 10, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

In his written argument, claimant admitted that he conducted no work search activities during the weeks at issue, weeks 25-16 through 28-16, but contended that he was not required to actively search for work because he was on a temporary layoff of less than four weeks. Claimant asserted he was on a temporary layoff because his seasonal job for one employer ended on June 29, 2016 and his seasonal job for another, different employer was scheduled to begin on July 21, 2016.

To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c). With exceptions, individuals are "required to conduct at least five work seeking activities per week, with at least two of those being direct contact with an employer who might hire the individual." OAR 471-030-0036(5)(a) (February 23, 2014). An individual who is on a temporary layoff of four weeks or less with the individual's regular employer and who was, as of the layoff date, given a date to return to full-time work or work for which the remuneration paid or payable exceeds the individual's weekly benefit amount "is actively seeking work by remaining in contact with and being capable of accepting and reporting for any suitable work with *that employer* for a period of up to four calendar weeks following the end of the week in which the temporary layoff occurred." OAR 471-030-0036(5)(b)(A)(emphasis added). A careful reading of the rule specifying the work search requirements for an individual on temporary layoff therefore demonstrates that it clearly applies to individuals who are expecting to return to work in four weeks or less for the employer that laid off the individual. Because claimant was expecting to begin work for an employer different from the employer that laid him off, he was subject to the normal work search requirements.

EAB reviewed 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 17-UI-75339 is affirmed.

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. 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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