

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0534-R

Appeals Board Decision 2017-EAB-0534 Adhered to on Reconsideration

PROCEDURAL HISTORY: On March 20, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant did not actively seek work from December 18, 2016 to January 14, 2017 (decision # 134131). Claimant filed a timely request for hearing. On April 25, 2017, ALJ Murdock conducted a hearing, and on April 27, 2017 issued Hearing Decision 17-UI-82024, affirming the Department's decision. On May 3, 2017, claimant filed an application for review with the Employment Appeals Board (EAB). On May 22, 2017, EAB issued Appeals Board Decision 2017-EAB-0534, affirming the hearing decision under review. On May 23, 2017, EAB received claimant's timely written argument. EAB will exercise its discretion under ORS 657.290(3) and reconsider Appeals Board Decision 2017-EAB-034 to address claimant's argument.

In Appeals Board Decision 2017-EAB-0534, EAB affirmed the hearing decision in which the ALJ concluded that claimant was ineligible to receive unemployment benefits for the period from December 18, 2016 through January 14, 2017 because he failed to actively search for work during this period.¹ We agreed with the ALJ that claimant did not qualify for the temporary layoff exemption from work search activities under OAR 471-030-0036(5)(b)(A) (February 23, 2014) because he had not been given a date to return to regular work for the employer that was within four weeks of his layoff date.

In his written argument, claimant lists a number of individuals or employers with whom he talked about work opportunities during each of the weeks at issue, and stated that none of them "had any work." This information about claimant's work search activities is new information. At the hearing, although claimant testified that he talked to a number of friends about job possibilities, he was unable to provide any specific names of individuals or companies with whom he had spoken. Audio recording at 15:05. Under OAR 471-041-0090(2)(a) (October 29, 2006), EAB may only consider new information not offered into evidence at the hearing if the party presenting the information shows that circumstances beyond the party's control prevented the party from offering the information at the hearing. Because

¹ 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). For purposes of ORS 657.155(1)(c), an individual is actively seeking work when doing what an ordinary and reasonable person would do to return to work at the earliest opportunity. OAR 471-030-0036(5)(a)(February 23, 2014). With limited 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." *Id.*

claimant has provided no reason why he did not offer the information he now wants EAB to consider at the hearing, EAB will not consider it.

Because we find no error of fact or law in EAB Decision 2017-EAB-0534 that would require correction, we adhere to that decision on reconsideration. *See* ORS 657.290(3) (reconsideration by EAB may include making a new decision “to the extent necessary and appropriate for the correction of a previous error of fact or law”).

DECISION: Appeals Board Decision 2017-EAB-0534 is adhered to on reconsideration.

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

DATE of Service: May 25, 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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