

**EMPLOYMENT APPEALS BOARD DECISION**  
**2017-EAB-0722**

*Affirmed*  
*Ineligible*

**PROCEDURAL HISTORY:** On February 3, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision (# 151950) concluding claimant was not available for work during the week including January 1 through 7, 2017. Claimant filed a timely request for hearing. On May 18, 2017, ALJ S. Lee conducted a hearing, and on May 26, 2017, issued Hearing Decision 17-UI-84352, affirming the Department's decision. On June 14, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Claimant filed an initial claim for unemployment insurance benefits on January 1, 2017. She claimed and was denied benefits for the week of January 1 through 7, 2017 (week 01-17), the week at issue.

(2) Claimant resided in Springfield, Oregon and her labor market was the Springfield and Eugene, Oregon areas. During the week at issue, claimant worked as a seasonal retail sales associate for Macy's at the Valley River Center in Eugene. In claimant's labor market, the usual hours and days of the week customary for work as a retail sales associate were all days, day and swing shifts.

(3) On January 7, 2017, claimant was scheduled to work at Macy's from 1:15 p.m. to 9:15 p.m. The night of January 6 and into the day of January 7, 2017, the Eugene metropolitan area was hit with inclement weather, specifically, severe snow and ice conditions. Exhibit 1. The Oregon Department of Transportation required travelers along I-5 near Eugene in large vehicles to use chains and travelers in smaller vehicles to use studded tires and generally recommended that drivers stay off the roads for safety reasons. City buses did not run and taxis were unwilling to accept passengers. Claimant drove a Ford Fusion and did not possess either studded tires or chains for her vehicle. She did not feel safe driving to work on January 7, 2017, chose not to, and missed her scheduled shift. That day, the Valley River Center closed early at 6:00 p.m. because few stores were open and few shoppers came to the center. If claimant had reported for work that day, she would have worked from 1:15 p.m. until the center closed at 6:00 p.m.

**CONCLUSIONS AND REASONS:** We agree with the ALJ. Claimant was not available for work during the week at issue.

To be eligible to receive unemployment insurance benefits, unemployed individuals must be available for work during each week claimed. ORS 657.155(1)(c). An individual must meet certain minimum requirements to be considered “available for work” for purposes of ORS 657.155(1)(c). OAR 471-030-0036(3) (February 23, 2014). Among those requirements are that the individual be capable of reporting for any suitable work opportunities within the labor market in which work is being sought. *Id.*

In this case, claimant chose to miss her work shift on January 7, 2017 after concluding she was not capable of safely traveling to and from work due to the inclement weather. However wise a decision that may have been, OAR 471-030-0036(3) contains no “good cause” exception to that or any other requirement for benefit eligibility. “If the legislature had wished to require a good cause exemption under ORS 657.155(1)(c), it could have included it in the statute.” *Doctor v. Employment Division*, 76 Or App 650, *rev den* 300 Or 704 (1985).

Consequently, because claimant was incapable of reporting for a suitable work opportunity within her labor market during the week at issue, she was not available for work and is ineligible for benefits for that week (week 01-17).

**DECISION:** Hearing Decision 17-UI-84352 is affirmed.

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

**DATE of Service:** July 20, 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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