

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0865

Affirmed
Ineligible Weeks 51-16 through 03-17

PROCEDURAL HISTORY: On , the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 81607) concluding that claimant failed to actively search for work from December 18, 2016 through January 21, 2017 (weeks 51-16 through 03-17). Claimant filed a timely request for hearing. On July 5, 2017, ALJ Murphey conducted a hearing, and on July 14, 2017, issued amended Hearing Decision 17-UI-88080, affirming the administrative decision. On July 19, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On or about December 15, 2016, claimant was laid off from his job as a truck driver. At the time he was laid off, claimant's employer told him he return to work "around the first of January." Audio recording at 19:28.

(2) On December 15, 2016, claimant filed an initial claim for benefits. Claimant claimed benefits for weeks 51-16 through 03-17 (December 18, 2016 through January 21, 2017), the weeks at issue.

(3) Claimant performed no work seeking activities during the weeks at issue.

CONCLUSION AND REASONS: We agree with the ALJ and conclude that claimant failed to actively search for work during weeks 51-16 through 03-17 and is ineligible to receive benefits for those weeks.

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.* An individual who is on a temporary layoff for four weeks or less with the individual's regular employer and had, as of the layoff date, been given a date to return to work within four weeks or less, is considered to have actively sought 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 layoff occurred. OAR 471-030-0036(5)(b).

On the date the employer laid claimant off, the employer was told he would return to work “around the first of January.” Under OAR 471-030-0036(5)(b)(A), to qualify for the temporary layoff exemption from work seeking activities, claimant must, as of the layoff date, been given a *date* to return to work. “Around the first of January” is not a date.¹ Claimant was therefore required to perform five work seeking activities during each of the weeks at issue. Because he failed to do so, he is ineligible to receive benefits for those weeks.

DECISION: Hearing Decision 17-UI-88080 is affirmed.

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

DATE of Service: August 11, 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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¹ Relevant definitions of “date” are [t]he day of the month or year as specified by a number,” and “[a] particular day or year when a given event occurred or will occur.” <https://en.oxforddictionaries.com/definition/date>.