

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0898

Affirmed
Ineligible Weeks 5-17 through 8-17

PROCEDURAL HISTORY: On March 27, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 133329) concluding that claimant did not actively search for work from January 29 through February 25, 2017 (5-17 through 8-17). Claimant filed a timely request for hearing. On July 10, 2017, ALJ Meerdink conducted a hearing and issued Hearing Decision 17-UI-87547, affirming the administrative decision. On July 28, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) UPS hired claimant as a feeder driver in November 2016. Claimant's performed work for UPS on an on call basis; he worked only when UPS contacted him and offered him work. After January 21, 2017, claimant was not contacted by UPS and performed no more work for the company.

(2) Claimant claimed benefits for weeks 5-17 through 8-17 (January 29 through February 25, 2017), the weeks at issue. When he filed claims for each of these weeks, he indicated he was on a temporary layoff from his employer.

(3) During each of the weeks at issue, claimant contacted UPS about available positions. During week 8-17, claimant contacted one other employer besides UPS.

CONCLUSION AND REASONS: We agree with the ALJ and conclude that claimant did not actively search for work during weeks 5-17 through 8-17.

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).

Claimant was laid off from his position as a feeder driver with UPS as of January 21, 2017 because his work for the company ceased as on that date. Claimant's lack of work for UPS was not a temporary layoff within the meaning of OAR 471-030-0026(5)(a), however, because he was never given a date by which he could be expected to return to work by UPS. Claimant was therefore required to conduct an active work search during each of the weeks at issue. Because he did not perform five work seeking activities during any of the weeks at issue, he is ineligible to receive benefits for weeks 5-17 through 8-17 (January 29 through February 25, 2017).

DECISION: Hearing Decision 17-UI-87547 is affirmed.

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

DATE of Service: August 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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