

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0938

Affirmed
Ineligible Weeks 1-17 and 2-17

PROCEDURAL HISTORY: On March 13, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 123825) concluding that claimant did not actively search for work from January 1 through 14, 2017 (weeks 1-17 and 2-17). Claimant filed a timely request for hearing. On July 13, 2017, ALJ Shoemake conducted a hearing, and on July 21, 2017, issued Hearing Decision 17-UI-88643, affirming the administrative decision. On August 4, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On December 30, 2016, claimant's regular employer, Hook Creek Companies, told claimant that he was being laid off due to bad weather. The employer told claimant that his return to work date would depend on the weather.

(2) On January 1, 2017, claimant filed an initial claim for unemployment benefits. Claimant claimed benefits for weeks 1-17 and 2-17 (January 1 through 14, 2017), the weeks at issue. When he filed his claims for each of these weeks, claimant indicated he was on a temporary layoff.

(3) Claimant checked daily with his regular employer to see if work was available, but performed no other work search activities during the weeks at issue.

CONCLUSION AND REASONS: We agree with the ALJ and conclude that claimant did not actively search for work during weeks 1-17 and 2-17. He is therefore ineligible to receive benefits during 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, 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)(A).

Here, claimant did not meet the requirements to be considered temporarily laid off under OAR 471-030-0036(5)(b)(A) because, on the date he was laid off, he was not given a return to work date. As a result, claimant was required to conduct five work search activities during each of the weeks at issue to be eligible for benefits. Because the only work search activity claimant conducted during the weeks at issue was to check daily with his regular employer about available work, he is ineligible to receive benefits during weeks 1-17 and 2-17.

DECISION: Hearing Decision 17-UI-88643 is affirmed.

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

DATE of Service: August 18, 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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