

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0075**

*Affirmed*  
*Ineligible Weeks 44-17 and 45-17*

**PROCEDURAL HISTORY:** On December 7, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work from October 29, 2017 through November 11, 2017 (decision # 74931). Claimant filed a timely request for hearing. On January 9, 2018, ALJ Griffin conducted a hearing, and on January 10, 2018 issued Hearing Decision 18-UI-100615, affirming the Department's decision. On January 20, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) On October 21, 2017, claimant filed an initial claim for unemployment insurance benefits. Claimant claimed and was paid benefits for the weeks including October 29, 2017 through November 11, 2017 (weeks 44-17 through 45-17), the weeks at issue.

(2) Claimant worked part-time for a Beaverton, Oregon church nursery for two hours on Sundays monitoring young children while their parents attended church services.

(3) On Sundays October 29, 2017 and November 5, 2017, claimant requested and received permission to miss her church nursery shifts for personal reasons, and did so on those days.

**CONCLUSIONS AND REASONS:** We agree with the Department and the ALJ that claimant was not available for work during the weeks at issue.

ORS 657.155(1)(c) requires that claimants be available for work each week as a condition of being eligible for unemployment insurance benefits. Under OAR 471-030-0036(3)(a), the Department defines "available for work" to include, in pertinent part, being willing and capable of accepting and reporting for work within the labor market in which work is being sought during all of the usual hours and days of the week customary for the work being sought and refraining *See* OAR 471-030-0036(3) (February 23, 2014) from imposing conditions that limit the individual's opportunities to return to work at the earliest possible time.

At hearing, claimant admitted that prior to her scheduled shifts on October 29 and November 5, she informed the employer that she would not be able to attend her scheduled shifts for personal reasons. Audio Record ~ 11:30 to 12:30. Regardless of the merit of taking the time off for personal reasons, by doing so, claimant imposed a condition that limited her opportunities to return to work at the earliest possible time. Thus, during each week at issue, claimant was not available to work as defined under OAR 471-030-0036(3)(a).

In written argument, claimant asserted that she was unaware that taking 2 hours off from work in a given week for personal reasons could disqualify her from receiving benefits for the entire week, particularly since the Department initially approved her benefit claims. Written Argument at 1. However, OAR 471-030-0036 contains no “good faith error” exception to fulfilling all of the weekly requirements for obtaining benefits. In other words, a claimant either meets weekly eligibility requirements for benefits, or he or she does not. In the present case, claimant did not.

Claimant was not available for work during the weeks including October 29, 2017 through November 11, 2017 (weeks 44-17 through 45-17) and is ineligible for benefits for those weeks.

**DECISION:** Hearing Decision 18-UI-100615 is affirmed.

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

**DATE of Service:** February 16, 2018

**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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