

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0240-R**

*Affirmed on Reconsideration*  
*Ineligible December 31, 2017 to February 3, 2018*

**PROCEDURAL HISTORY:** On January 12, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was not available for work and did not actively seek work from December 31, 2017 to January 6, 2018 (decision # 92340). Claimant filed a timely request for hearing. On March 1, 2018, ALJ Griffin conducted a hearing, and on March 2, 2018 issued Order No. 18-UI-104323, concluding claimant was not available for work from December 31, 2017 to February 3, 2018. On March 7, 2018, claimant filed an application for review with the Employment Appeals Board (EAB). On April 10, 2018, EAB issued Appeals Board Decision 2018-EAB-0240, affirming the ALJ's Order. On April 30, 2018, claimant filed a timely request for reconsideration. This decision is issued pursuant to EAB's authority under ORS 657.290(3).

**CONCLUSIONS AND REASONS:** Reconsideration is granted. We adhere to Appeals Board Decision 2018-EAB-0240 as clarified herein.

OAR 471-041-0145(1) provides that any party may request reconsideration to correct an error of material fact or law. Claimant argued that EAB's decision contained an error of law because concluding under ORS 657.155(1)(c) and OAR 471-030-0036 that claimant was ineligible for benefits based upon her unwillingness to work full time during the weeks she claimed is, according to claimant, inconsistent with Oregon's Constitution and ORS 659A.400 *et seq.* We disagree. We addressed claimant's constitutional argument in EAB decision 2018-EAB-0240 and did not find the argument persuasive at that time; we therefore adhere to our previous decision with respect to that issue. Likewise, we do not find claimant's argument that denial of unemployment insurance benefits to her under the circumstances described on the record constitutes discrimination on the basis of sex under ORS 659A.400 *et seq.* On reconsideration, we therefore adhere to EAB decision 2018-EAB-0240 and the Order which it adopted.

**DECISION:** On reconsideration, Order No. 18-UI-104323 is re-affirmed.

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

**DATE of Service: May 31, 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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