

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0456

Affirmed
Redetermination Denied

PROCEDURAL HISTORY: On March 13, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision denying claimant's request for a redetermination of his wage and potential benefit report. Claimant filed a timely request for hearing. On April 17, 2018, ALJ R. Frank conducted a hearing, and on April 20, 2018 issued Order No. 18-UI-107827, affirming the Department's decision. On May 2, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) Effective February 4, 2018, claimant filed an initial claim for unemployment insurance benefits.

(2) Claimant's base year included October 1, 2016 to September 30, 2017. During claimant's base year, he worked for and had earnings from Fangorn Forestry, LLC, where he worked as a managing member of the LLC. At all relevant times, Fangorn Forestry, LLC is registered in the state of Oregon as a Domestic Limited Liability Company.¹

(3) Effective January 9, 2017, claimant elected to designate his business as an "S-Corp" for U.S. Internal Revenue Service purposes. That election did not alter claimant's state of Oregon business registry.

CONCLUSIONS AND REASONS: We agree with the ALJ that claimant's request for redetermination should be denied.

ORS 657.150(2)(a) provides that an individual must have had a certain amount of work and/or earnings in employment subject to ORS chapter 657 in the individual's base year, as a condition of being

¹ We take notice of this generally cognizable fact, which is located at: http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.show_det?p_be_rsn=1877458&p_srce=BR_INQ&p_print=FALSE. Any party that objects to our doing so must submit such objection to this office in writing, setting forth the basis of the objection in writing, within ten days of our mailing this decision. OAR 471-041-0090(3) (October 29, 2006). Unless such objection is received and sustained, the noticed fact will remain in the record.

monetarily qualified to receive unemployment insurance benefits. ORS 657.044(1) provides that “employment” does not include service performed for a limited liability company by a member.

In this case, the entirety of claimant’s base year earnings came from services he performed for a limited liability company of which he was a member. His base year earnings were therefore not the type of “subject” employment that could monetarily qualify him for unemployment insurance benefits. As such, he did not establish that he was entitled to a redetermination of his wage and potential benefit report or that he was or should have been monetarily qualified for unemployment insurance benefits.

DECISION: Order No. 18-UI-107827 is affirmed.

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

DATE of Service: June 1, 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. 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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