

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0836

Affirmed
Eligible

PROCEDURAL HISTORY: On July 12, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant was available for work during the week of June 17 through June 23, 2018 (decision # 65323). The employer filed a timely request for hearing. On July 31, 2018, ALJ S. Lee conducted a hearing, and on August 8, 2018 issued Order No. 18-UI-114608, affirming the Department's decision. On August 27, 2018, the employer filed an application for review with the Employment Appeals Board (EAB).

The employer submitted a written argument in which, among other things, it requested that the employer's unemployment insurance tax account not be charged as a result of claimant's claim because the employer did not change claimant's work hours during the weeks at issue and gave claimant as many hours of work as it could. However, the issue before the ALJ and before EAB on review was solely whether claimant was available for work under the standards set forth in OAR 471-030-0036(3) (April 1, 2018). Those standards generally involve a claimant's willingness to accept and perform the type of work that he or she is seeking during the weeks at issue, and do not involve consideration of the hours of work that a particular employer was able to offer claimant during those same weeks. In addition, the issue of charging an employer's account as a result of a claimant's unemployment insurance claim is not a relevant consideration in determining whether claimant was available and eligible to receive benefits under OAR 471-030-0036(3). For these reasons, the employer's position as stated in its written argument is not relevant to whether claimant was available for benefits during the weeks at issue and eligible for benefits based on his availability.

EAB reviewed the entire hearing record. On *de novo* review and pursuant to ORS 657.275(2), the Order under review is **adopted**.

DECISION: Order No. 18-UI-114608 is affirmed.

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

DATE of Service: September 27, 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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveymonkey.com/s/5WQXNJH>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.