

EMPLOYMENT APPEALS BOARD DECISION
2018-EAB-0982

Affirmed
Ineligible Weeks 31-18 Through 34-18

PROCEDURAL HISTORY: On July 25, 2018, the Oregon Employment Department (the Department) served notice of an administrative decision concluding the employer discharged claimant for misconduct (decision # 141918). On July 31, 2018, claimant filed a timely request for hearing. On August 20, 2018, ALJ S. Lee conducted a hearing on decision # 141918. On August 24, 2018, ALJ S. Lee issued Order No. 18-UI-115546, reversing decision # 141918. On September 13, 2018, Order No. 18-UI-115546 became final without an application for review having been filed with the Employment Appeals Board (EAB).

On August 20, 2018, the Department served a second notice of an administrative decision concluding that claimant was not eligible to receive benefits for the week of July 29 through August 4, 2018 due to not having registered for work in accordance with the Department's regulations. On August 27, 2018, claimant filed a timely request for hearing of the Department's decision that claimant had not registered for work in accordance with the Department's regulations. On September 20, 2018, ALJ Wyatt conducted a hearing on whether claimant had registered for work in accordance with the Department's regulations, and on September 26, 2018 issued Order No. 18-UI-117208, concluding that claimant was not eligible to receive benefits for the period of July 29 through August 25, 2018 due to having failed to register for work. On October 10, 2018, claimant filed an application for review of Order No. 18-UI-117208 with EAB.

Claimant submitted a written argument that contained information not offered during the hearing. Claimant did not explain why he did not present this information at the hearing or otherwise show as required by OAR 471-041-0090(2) (October 29, 2006) that factors or circumstances beyond his reasonable control prevented him from doing so. For this reason, EAB did not consider the new information that claimant sought to introduce by way of his written argument when reaching this decision.

FINDINGS OF FACT: (1) On July 14, 2018, claimant filed an initial claim for unemployment insurance benefits online. During the process of filing that claim, an on-screen advisory appeared

informing claimant that to receive benefits he needed to register for work in the iMatchSkills system, which was the Department's electronic job match system. The advisory further notified claimant that he would receive a letter in a few days, UI Pub 277, informing him how to fully register for benefits. The advisory went on to state that it was "very important that you read it [UI Pub 277] and follow the instructions. To receive benefits, you must register with the Department's iMatchSkills system **and** visit your local WorkSource center to complete the welcome process or you may be denied benefits." Audio at ~7:10 (emphasis added). On July 15, 2018, claimant successfully registered in the job match component of the iMatchSkills system online and received a job seeker identification number. Around this time, claimant began to file weekly claims for benefits.

(2) On July 16, 2018, claimant called the Department and spoke with a business and employment specialist about the work separation that had caused him to seek unemployment insurance benefits. In that call, the specialist explained to claimant that to receive benefits he needed to register in the iMatchSkills system and complete the welcome process by visiting a local WorkSource center.

(3) On July 16, 2018, the Department mailed the UI Pub 277 letter to claimant, which he received a few days later. The letter acknowledged that claimant had filed an unemployment insurance claim, and stated that the next steps to receive benefits included registering for work in the Department's job match system **and** coming into your local WorkSource Center (emphasis added). The letter provided the address of the WorkSource Center to which claimant was assigned. The letter concluded, "To avoid denial of benefits, visit your local WorkSource Center below and complete enrollment activities by July 31, 2018." Audio at ~8:10. Claimant did not visit the local WorkSource Center to complete enrollment by participating in the welcome process because he had already enrolled in the job match component of the iMatchSkills system and believed he had completed all required enrollment activities.

(4) Around the time claimant received UI Pub 277 or shortly after, he began to receive notices from the Department informing him that he was not being paid benefits because "an issue is being resolved with your claim [and] you will be contacted if further information is needed." Audio at ~26:11. These notices related to the work separation that caused claimant to file a claim for benefits on July 14, 2018 and that had led to the issuance of decision # 141918, which denied benefits to claimant based on that work separation.

(5) Claimant claimed benefits for the week of July 29, 2018 through August 4, 2018 (week 31-18). As of July 31, 2018, claimant had not visited a WorkSource center to complete the required registration activities. Claimant claimed benefits for the week of August 5, 2018 through August 11, 2018 (week 32-18). On August 7, 2018 (in week 32-18), the Department mailed a letter to claimant's address of record informing him that he had not been paid benefits for the most recent week he claimed because he had failed to fully register in the iMatchSkills system by visiting a local WorkSource center. Audio at ~9:40. Claimant claimed benefits for the week of August 12, 2018 through August 18, 2018 (week 33-18). On August 16, 2018 (in week 33-18), the Department mailed a second letter to claimant's address of record informing him that he had not been paid benefits for the most recent week he claimed because he had failed to fully register in the iMatchSkills system by visiting a local WorkSource center. Audio at ~10:00, ~26:28. None of the letters and notices the Department sent to claimant's address were returned as undeliverable.

(6) Claimant claimed benefits for the weeks of August 19, 2018 through August 25, 2018 (week 34-18). Around August 20, 2018 (in week 34-18), claimant received another letter from the Department informing him that he was not being paid benefits because he had failed to fully register in the iMatchSkills system and visit a local WorkSource center. Audio at ~17:55. That day, claimant made an appointment to meet with a representative at a WorkSource Center. On August 27, 2018, claimant met with the representative and completed the registration process.

CONCLUSIONS AND REASONS: Claimant did not register for work in accordance with the rules of the Department and is not eligible to receive benefits for weeks 31-18 through 34-18.

ORS 657.155(1)(a) provides that an unemployed individual shall be eligible to receive benefits with respect to any week only if the individual has registered for work and reported at an employment office in accordance with such rules as the director may prescribe. ORS 657.159(1) provides that to satisfy the registration requirements of ORS 657.155(1) an unemployed individual who submits a claim for benefits must at the Department's request submit such information about the individual's qualifications, training and experience as deemed necessary to carry out job placement and counseling services for the individual. OAR 471-030-0035(1)(January 11, 2018) provides that a claimant may fulfill the "registered for work" requirements of ORS 667.155(1)(a) by completion of such processes as directed by the Department in order to create a full registration for work.

Claimant did not follow the instructions to fully register for work that he received as set out in the advisory when he filed his initial claim for benefits; in his conversation on July 16 with the business and employment specialist, which he did not dispute; and in UI Pub 277, which he concedes he received shortly after July 16, 2018. Audio at ~16:13, ~21:06. Although these sources all informed claimant that he needed to enroll in the iMatchSkills system, they also clearly informed him that, in addition, he needed to visit his local WorkSource center to complete the registration process in person. Despite the clarity in the Department's communications, it appears that claimant did not take in that he was required to personally visit a local WorkSource Center, presumably in part because during the month after he filed his initial claim he was also receiving communications from the Department about whether the facts of the work separation were disqualifying. Audio at ~26:11. While claimant may have been distracted by the issues surrounding the work separation and did not focus on the details of the registration process, the controlling statutes and regulations do not excuse a failure to register for work as instructed on any ground. Because the communications claimant admitted receiving from the Department should have put him on reasonable notice that he was required to visit his local WorkSource Center by July 31, 2018 to complete registration activities and to remain eligible to receive benefits and claimant did not do so, claimant is not eligible to receive benefits from July 29, 2018, the benefit week in which claimant missed the July 31, 2018 deadline, through August 25, 2018, the end of the benefit week immediately preceding claimant's completion of the registration process by personally visiting a local WorkSource Center.

DECISION: Order No. 18-UI-117208 is affirmed.

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

DATE of Service: November 13, 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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