

State of Oregon
Employment Appeals Board
875 Union St. N.E.
Salem, OR 97311

EMPLOYMENT APPEALS BOARD DECISION
2025-EAB-0247

Affirmed
Ineligible Week 52-24

PROCEDURAL HISTORY: On February 3, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was not available for work during the week of December 22 through 28, 2024 (week 52-24) and was ineligible for benefits for that week (decision # L0009050408). Claimant filed a timely request for hearing. On April 8, 2025, ALJ Buckley conducted a hearing, and on April 9, 2025, issued Order No. 25-UI-288960, affirming decision # L0009050408. On April 24, 2025, claimant filed an application for review with the Employment Appeals Board (EAB).

FINDINGS OF FACT: (1) On September 25, 2024, claimant filed an initial claim for benefits that the Department determined was monetarily valid. Claimant claimed benefits for the week of December 22 through 28, 2024 (week 52-24). This is the week at issue. The Department paid claimant benefits for the week at issue.

(2) Lachini Vineyards, LLC, employed claimant on a part-time basis beginning November 22, 2024. Prior to his hire, claimant had booked a non-refundable trip to California from December 26, 2024, through December 31, 2024. Claimant was unwilling to cancel the trip and therefore requested, at hire, that he not be scheduled to work during that period. The employer agreed.

(3) Claimant's normal labor market area was Portland, Oregon and parts of the Willamette Valley to the southwest. During the week at issue, claimant sought work in winery tasting rooms in that area. Such work is customarily performed seven days per week during daytime hours.

(4) Claimant did not have a fixed work schedule and was assigned shifts according to the employer's needs and claimant's preferences. During the week at issue, the employer did not schedule claimant for work due to a combination of seasonal business conditions and claimant's request for time off. However, the employer would have scheduled claimant to work in telephone marketing during the week had claimant specifically requested to work.

(5) From December 26 through 31, 2024, claimant was in California on his pre-planned trip. Claimant did not seek work in California while on the trip.

CONCLUSIONS AND REASONS: Claimant was not available for work during the week at issue.

To be eligible to receive benefits, unemployed individuals must be able to work, available for work, and actively seek work during each week claimed. ORS 657.155(1)(c).

For an individual to be considered “available for work” for purposes of ORS 657.155(1)(c), they must be:

(a) Willing to work full time, part time, and accept temporary work opportunities, during all of the usual hours and days of the week customary for the work being sought, unless such part time or temporary opportunities would substantially interfere with return to the individual’s regular employment; and

(b) Capable of accepting and reporting for any suitable work opportunities within the labor market in which work is being sought, including temporary and part time opportunities; and

(c) Not imposing conditions which substantially reduce the individual’s opportunities to return to work at the earliest possible time; and

(d) Physically present in the normal labor market area as defined by [OAR 471-030-0036(6) (March 25, 2022)], every day of the week, unless:

(A) The individual is actively seeking work outside his or her normal labor market area; or

(B) The individual is infrequently absent from the normal labor market area for reasons unrelated to work search, for less than half of the week, and no opportunity to work or referral to work was missed by such absence.

* * *

OAR 471-030-0036(3).

During the week at issue, claimant left his normal labor market area on a pre-planned trip to California that was not for the purpose of seeking work. However, claimant was physically present in his normal labor market area for more than half of the week at issue, and therefore OAR 471-030-0036(3)(d) does not render claimant unavailable for work on that basis.

Claimant sought work in wine tasting rooms during the week at issue, and it is reasonable to infer that such work is customarily performed on all days of the week during daytime hours. When claimant began working for the employer, he requested not to be scheduled to work from at least December 26 through 28, 2024, so that he could go on the California trip. The record is somewhat unclear as to whether the

employer would have scheduled claimant to work during any of those three days had he not requested them off. Nonetheless, claimant testified, “It was a prearranged trip already planned and it would have been a financial hardship for me to cancel that because I would not have gotten any money paid out.” Audio Record at 15:30. It is reasonable to infer from this testimony, and claimant asking the employer for these days off, that he was unwilling to engage in any type of work during those three days because it would have required the cancellation of his trip. Therefore, more likely than not, claimant was not willing to work during all of the usual hours and days of the week customary for the work being sought. Accordingly, claimant did not meet the requirements of OAR 471-030-0036(3)(a) to be considered available for work during the week at issue.

For these reasons, claimant was not available for work during the week of December 22 through 28, 2024 (week 52-24) and is ineligible for benefits for that week.

DECISION: Order No. 25-UI-288960 is affirmed.

D. Hettle and A. Steger-Bentz;
S. Serres, not participating.

DATE of Service: May 23, 2025

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 stated above.** See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under “File a Petition for Judicial Review.” You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

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Understanding Your Employment Appeals Board Decision

English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyon.

Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

Khmer

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

Laotian

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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