

**EMPLOYMENT APPEALS BOARD DECISION**  
**2026-EAB-0147**

*Reversed*  
*Eligible Week 43-25*

**PROCEDURAL HISTORY:** On November 14, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work during the week of October 19 through 25, 2025 (week 43-25), and therefore was not eligible for unemployment insurance benefits for that week (decision # L0014057771). Claimant filed a timely request for hearing. On January 27, 2026, ALJ Frank conducted a hearing at which the Department failed to appear, and on January 29, 2026 issued Order No. 26-UI-318533, affirming decision # L0014057771. On February 13, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

**WRITTEN ARGUMENT:** EAB considered claimant's written argument when reaching this decision.

**FINDINGS OF FACT:** (1) On September 22, 2025, claimant filed an initial claim for unemployment insurance benefits. Claimant subsequently claimed benefits for the week of October 19 through 25, 2025 (week 43-25). This is the sole week at issue. The Department did not pay claimant benefits for the week at issue.

(2) At the time he filed his initial claim, claimant was working for a construction company ("the employer") which was experiencing a period of slow work. Claimant filed his initial claim at the suggestion of his superintendent, who on September 22, 2025, advised him to file the claim in advance of an impending work slowdown. From that week until the week of October 12 through 18, 2025 (week 42-25), claimant continued to work for the employer. For each of those weeks, claimant worked less than full time, but earned more than his weekly benefit amount.

(3) During the week at issue, claimant did not work at all or earn any wages. However, claimant kept in regular touch with his superintendent during that week, and expected to return to work for the employer in short order. Claimant did not perform any other work seeking activities that week.

(4) Beginning the week of October 26, 2025 through November 1, 2025 (week 44-25), claimant returned to work for the employer, and earned wages that exceeded his weekly benefit amount.

**CONCLUSIONS AND REASONS:** Claimant actively sought work during the week at issue (week 43-25), and therefore is eligible for benefits for that week.

To be actively seeking work as required under ORS 657.155(1)(c), an individual “must conduct at least five work-seeking activities per week,” with two of the five work-seeking activities being a direct contact with an employer who might hire the individual. OAR 471-030-0036(5)(a) (March 21, 2022). “Direct contact” means “making contact with an employer in person, by phone, mail, or electronically to inquire about a job opening or applying for job openings in the manner required by the hiring employer.” OAR 471-030-0036(5)(a)(B). These requirements apply unless an individual is temporarily unemployed or meets one of the other exceptions to the rule. For individuals who are temporarily unemployed, OAR 471-030-0036(5)(b) defines “actively seeking work” as follows:

(A) They are considered to be actively seeking work when they remain in contact with their regular employer and are capable of accepting and reporting for any suitable work with that employer;

(B) There is a reasonable expectation that they will be returning to work for their regular employer. The work the individual is returning to must be full time or pay an amount that equals or exceeds their weekly benefit amount;

(C) The department will not consider the individual to be temporarily unemployed if they were separated from their employer for reasons other than a lack of work, the work the individual is returning to is not with their most recent employer, or the length the individual is unemployed is longer than the period described in subsection (D) of this section; and

(D) The department will consider that the period for which an individual is temporarily unemployed:

(i) Begins the last date the individual performed services for the employer. In the case of an individual still working for the employer, it is the last date worked during the week in which the individual had earnings less than their weekly benefit amount; and

(ii) Cannot be greater than four weeks between the week the individual became temporarily unemployed and the week the individual returns to work as described in subsection (B) of this section.

The sole issue to determine in this matter is whether claimant met the actively seeking work requirements for the week at issue, week 43-25. To have met these requirements, claimant must have either conducted at least five work-seeking activities during the week or, in relevant part, have been temporarily unemployed. Claimant did not perform any work-seeking activities during the week at issue other than keeping in touch with the employer. As such, the order under review concluded that claimant did not actively seek work for the week at issue, explaining that claimant was not temporarily

unemployed during the week at issue because a “temporary period of unemployment . . . cannot exceed four weeks according to rule, and week 43/25 was the fifth week claimed following claimant’s reduction in hours.” Order No. 26-UI-318533 at 3. This is a misapplication of OAR 471-030-0036(5)(b).

In fact, the record shows that claimant was temporarily unemployed for the week at issue. The relevant period to analyze does not begin when claimant’s hours were *reduced*, which appears to have occurred in or around late September 2025. At that time, claimant, despite working reduced hours, continued to earn weekly wages greater than his weekly benefit amount, and therefore was not “unemployed” during those weeks.<sup>1</sup> Because claimant was not “unemployed” at all during the weeks in which he was working part time, he could not have been considered “temporarily unemployed” during those weeks.

Because claimant did not work at all during the week at issue, OAR 471-030-0036(5)(b)(i) requires that the period of temporary unemployment begin “the last date the individual performed services for the employer.” That date occurred some time during week 42-25, the week prior to the week at issue. As such, the four-week period of temporary unemployment allowed under OAR 471-030-0036(5)(b)(ii) began during that week, rather than the week in which claimant first began working reduced hours. Because the week at issue immediately followed the week in which claimant became temporarily unemployed, it fell within the four-week period of temporary unemployment contemplated under the rule.

Furthermore, claimant met all the other requirements under OAR 471-030-0036(5)(b). The record shows that claimant kept in regular touch with the employer during the week at issue. It can also be reasonably inferred from the record that claimant was “capable of accepting and reporting for any suitable work with that employer,” as the record lacks evidence to the contrary, and claimant performed work for the employer during the weeks before and after the week at issue. Likewise, the record shows that claimant reasonably expected to return to work for the employer; that he actually did so; that the work he returned to paid more than his weekly benefit amount; and that the cause of claimant’s unemployment during the week at issue was a lack of work.

For the above reasons, claimant was temporarily unemployed during the week at issue, and, during that week, met the actively seeking work requirement applicable to temporarily unemployed individuals. Therefore, claimant was eligible for unemployment insurance benefits for the week at issue, week 43-25.

**DECISION:** Order No. 26-UI-318533 is set aside, as outlined above.

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

**DATE of Service:** March 30, 2026

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<sup>1</sup> An individual is deemed “unemployed” in any week during which the individual performs no services and with respect to which no remuneration for services performed is paid or payable to the individual, or in any week of less than full-time work if the remuneration paid or payable to the individual for services performed during the week is less than the individual’s weekly benefit amount. ORS 657.100(1).

**NOTE:** This decision reverses the ALJ’s order denying claimant benefits. Please note that in most cases, payment of benefits owed will take about a week for the Department to complete.

**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، می‌توانید با استفاده از دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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