

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0581

Affirmed ~ Ineligible Week 12-26

Confirmada ~ No Elegible la Semana 12-26

Este documento incluye información importante que no ha sido traducida al español. Llame a la Junta de Apelaciones de Empleo (EAB) al 503-378-2077 para obtener servicios de traducción gratuitos.¹

PROCEDURAL HISTORY: On May 8, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant did not actively seek work during the week of March 22 through 28, 2026 (week 12-26) and was therefore ineligible to receive unemployment insurance benefits for that week (decision # L0017435361). Claimant filed a timely request for hearing. On May 26, 2026, ALJ Griffith conducted a hearing, interpreted in Spanish, at which the Department failed to appear, and on June 1, 2026 issued Order No. 26-UI-331583, affirming decision # L0017435361. On June 6, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

ANTECEDENTES PROCESALES: El 8 de mayo de 2026, el Departamento de Empleo de Oregon (el Departamento) notificó una decisión administrativa en la que se concluía que el reclamante no había buscado trabajo activamente durante la semana del 22 al 28 de marzo de 2026 (semana 12-26) y que, por lo tanto, no cumplía con los requisitos para percibir beneficios del seguro de desempleo correspondientes a semana 12-26 (decisión n.º L0017435361). El reclamante presentó una solicitud de audiencia oportuna. El 26 de mayo de 2026, la Jueza de Derecho Administrativo (ALJ) Griffith celebró una audiencia, con servicio de interpretación al español, a la que el Departamento no compareció. El 1 de junio de 2026, la jueza emitió la Orden n.º 26-UI-331583 que confirmó la decisión n.º L0017435361. El 6 de junio de 2026, el reclamante presentó una solicitud de revisión ante la Junta de Apelaciones de Empleo (EAB).

¹ This document includes important information that has not been translated into Spanish. Please call the Employment Appeals Board (EAB) at 503-378-2077 to obtain free translation services.

EVIDENTIARY MATTER: EAB has considered additional evidence when reaching this decision under OAR 471-041-0090(1) (May 13, 2019). The additional evidence is the proposed exhibit claimant offered at hearing but which was not admitted as evidence because claimant did not provide a copy to the Department prior to the hearing. See Order No. 26-UI-331583 at 1. Because the evidence is relevant and material to the issue to be decided, and the Department did not participate in the hearing and therefore did not object to its admission, EAB has considered the evidence as necessary to complete the record. It has been marked as EAB Exhibit 1 and provided to the parties with this decision. Any party that objects to EAB taking notice of this information must send their objection to EAB in writing, saying why they object, within ten days of EAB mailing this decision. OAR 471-041-0090(2). Unless EAB receives and agrees with the objection, the exhibit will remain in the record.

ASUNTO DE PRUEBAS: *EAB ha considerado evidencia adicional al llegar a esta decisión bajo OAR 471-041-0090(1) (13 de mayo de 2019). La prueba adicional es el documento que el reclamante presentó en la audiencia, pero que no fue admitido como prueba debido a que el reclamante no había entregado una copia al Departamento antes de la audiencia. Véase la Orden n.º 26-UI-331583, pág. 1. Dado que la prueba es pertinente y sustancial para la cuestión que debe resolverse, y que el Departamento no participó en la audiencia y, por consiguiente, no se opuso a su admisión, la EAB ha considerado esa prueba necesaria para completar el expediente. La prueba adicional se ha marcado como EAB Exhibit 1 (Prueba documental EAB 1), y se ha proporcionado a las partes con esta decisión. Cualquier parte que se oponga a que EAB tome aviso de esta información debe enviar su objeción a EAB por escrito, explicando por qué se opone, dentro de los diez días posteriores a la notificación de esta decisión por parte de EAB. OAR 471-041-0090(2). A menos que EAB reciba y esté de acuerdo con la objeción, las pruebas permanecerán en el registro del caso.*

WRITTEN ARGUMENT: EAB considered claimant’s argument in reaching this decision.

ARGUMENTO POR ESCRITO: *La EAB tomó en consideración el argumento del reclamante al adoptar esta decisión.*

FINDINGS OF FACT: (1) As of March 16, 2026, claimant was employed as an assembler by OshKosh AeroTech (“the employer”).

(2) On September 8, 2025, while working for the employer, claimant suffered an injury that thereafter affected his hearing and balance. Claimant received treatment through a workers’ compensation claim and continued working without modification of his job responsibilities.

(3) On March 16, 2026, while at work, claimant texted the employer, in relevant part:

I wanted to follow up on something I shared about two weeks ago . . . What I’m requesting is not a preference or a personal convenience. It comes from a work-related accident that left me deaf in my right ear. Recently I’ve been experiencing stronger vertigo and tinnitus symptoms, and being in my current area increases the risk of losing balance if an episode happens. Being reassigned to the e-shop would significantly reduce the risk since I wouldn’t be moving around as much, and it would allow me to work safely and effectively.

EAB Exhibit 1 at 29.

(4) Within hours of receiving the message, the employer sent claimant home from work and told him that he could not return to work, in his usual role or any other, until his medical provider completed a form stating that it was safe for him to do so and explaining any accommodations needed to ensure his safety at work. Claimant planned to have his doctor complete the form at an April 6, 2026 appointment, and told the employer as much.

(5) On March 22, 2026, claimant filed an initial claim for unemployment insurance benefits that the Department determined was monetarily valid. Claimant thereafter claimed benefits for the week of March 22 through 28, 2026 (week 12-26). This is the week at issue. The Department did not pay claimant benefits for the week at issue.

(6) During the week at issue, claimant maintained contact with the employer by email, requesting to return to work and to resolve his request for workplace accommodations. Claimant did not conduct any other work-seeking activities or have direct contact with any other potential employers during the week.

(7) On March 26, 2026, the employer sent an email to claimant that stated, in relevant part: “While the workplace accommodation form was submitted, the information from the medical provider is missing. Might you be able to move your medical appointment so that you can meet with your provider sooner than April 6? The sooner you can provide this documentation, the quicker we can partner with you on reasonable and safe accommodation options.” EAB Exhibit 1 at 18.

(8) On or before April 6, 2026, claimant’s doctor rescheduled claimant’s appointment to June 2, 2026.

(9) As of the May 26, 2026 hearing, claimant had not returned the completed form to the employer and had not resumed performing work for the employer for that reason.

CONCLUSIONS AND REASONS: Claimant did not actively seek 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).

Except for individuals who meet the rule’s definition of “temporarily unemployed,” and a few other exceptions not relevant here, 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).

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.

Claimant conceded at hearing that he did not perform any work-seeking activities or have any direct contact with potential employers, aside from maintaining contact with his existing employer. *See* Transcript at 6. Claimant did not seek other work because he believed that he met the requirements to be considered actively seeking work as a “temporarily unemployed” individual. The record shows that claimant did not meet all the requirements of OAR 471-030-0036(5)(b) to be considered “temporarily unemployed.”

During the week at issue, it appeared to claimant that his unemployed status would be temporary, as that term is commonly understood, because both claimant and his employer desired that he eventually return to performing work for the employer. However, OAR 471-030-0036(5)(b)(C) provides, in relevant part, that “[t]he 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[.]” Here, claimant was unemployed during the week at issue because on March 16, 2026, he told the employer that continuing to work in his current position “increase[d] the risk” of him suffering additional injury, and the employer therefore required him to obtain clearance from a medical provider before returning to work that also clarified what accommodations the employer should provide to ensure his safety. The record suggests that the employer was willing to allow claimant to resume working, potentially with accommodations, as soon as he returned the properly completed form. It was therefore these circumstances, and not a lack of work, that caused claimant to be separated from the employer during the week at issue. Accordingly, OAR 471-030-0036(5)(b)(C) precludes claimant’s use of the alternate definition of “actively seeking work”

for an individual who is “temporarily unemployed,” and claimant was required to complete the standard “actively seeking work” requirements during the week at issue, which he failed to do.

For these reasons, claimant did not actively seek work during the week of March 22 through 28, 2026 (week 12-26) and is therefore ineligible to receive unemployment insurance benefits for that week.

DECISION: Order No. 26-UI-331583 is affirmed.

DECISIÓN: *La Orden de la Audiencia 26-UI-331583 queda confirmada.*

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

DATE of Service: July 20, 2026

FECHA de Servicio: 20 de julio de 2026

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.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.

NOTA: *Puede apelar esta decisión presentando una Petición de Revisión Judicial ante la Corte de Apelaciones de Oregon (Oregon Court of Appeals) dentro de los 30 días siguientes a la fecha de entrega de esta decisión indicada arriba. Vea ORS 657.282. Para obtener formularios e información, visite <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> y elija el formulario para “Junta de Apelaciones Laborales”. En este sitio web, hay información disponible en español. Puede solicitar un intérprete para la Corte en <https://web.courts.oregon.gov/osca/clas/CLASRequestFormRedirect.html> También puede comunicarse con la Corte de Apelaciones por teléfono al (503) 986-5555, por fax al (503) 986-5560 o por correo a 1163 State Street, Salem, Oregon 97301.*

Por favor, ayúdenos a mejorar nuestro servicio completando una encuesta de servicio al cliente. Para completar la encuesta en línea, vaya a <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. Si no puede completar la encuesta en línea y desea obtener una copia impresa de la encuesta, comuníquese con nuestra oficina.



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

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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.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

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