

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

RANDY LEE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 22A-UI-20104-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/13/22
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available/Work Search
Iowa Code § 96.1A(37) – Total, Partial, Temporary Unemployment
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work

STATEMENT OF THE CASE:

On December 28, 2022, claimant Randy Lee filed an appeal from the December 21, 2022, (reference 01), unemployment insurance decision that advised the claimant they were no longer considered temporarily unemployed and warned the claimant they must begin making a minimum of four employment contacts each week. After due notice was issued, a telephone conference hearing was held on January 20, 2023. Claimant participated personally. Official notice was taken of the administrative record.

ISSUE:

Is the claimant required to begin making employment contacts?

FINDINGS OF FACT:

The claimant is employed with Quail Creek Golf Club. He works as a greens keeper primarily mowing grass. Effective November 13, 2022, the claimant opened a claim for unemployment insurance benefits due to a seasonal layoff from employment. Claimant was categorized in group code 3 for purposes of employment contacts, meaning he did not have to conduct reemployment activities. On December 21, 2022, Iowa Workforce Development (IWD) notified claimant he was no longer on a temporary layoff and would be classified as a group code 6. This meant claimant would be required to make at least four reemployment activities each week. Claimant has not been required to conduct work searches in the past during his seasonal layoffs. Claimant has worked as a seasonal worker for the country club for over 20 years. During that time the claimant also worked full-time as an elementary educator. Claimant retired in 2021 and his seasonal work for the employer is his full-time job during the spring, summer, and fall seasons. The claimant is currently laid off due to a seasonal lack of work and will be returning to the golf course in the Spring as he has done for two decades. The claimant testified that his job requires skill and experience in the proper way to cut grass for the various areas on the golf course. (fairway, rough, collar, and greens). The claimant is currently on a short-term seasonal lay-off from the golf course.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not exempt from making the minimum of four employment contacts on a weekly basis.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3.

(a) The individual is able to work, is available for work, and is earnestly and actively seeking work...

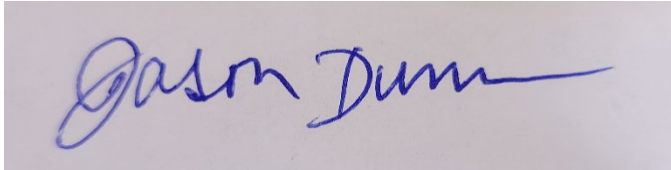
(b) Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry... To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff.

A layoff is not considered temporary if it lasts beyond four weeks. Iowa Code § 96.1A(37). In January 2022, IWD launched a Reemployment Case Management (RCM) program to assist individuals with finding work faster. Workers from a very limited number of occupations will be exempted from work search and RCM requirements. Iowa Code section 96.4(3)(b) references individuals on a *short-term temporary layoff* as being exempt from work search and defines that term as being limited to an employee performing “work related to highway construction, repair or maintenance...” Workers not under this classification do not qualify for an exemption. Here, claimant’s employment does not fall under that exemption.

Iowa Workforce Development has made the policy decision to exempt workers in certain trade(s)/occupation(s) from weekly employment contacts. This exemption will ensure they are available to return to employment with their regular employer whenever called to return to work. The claimant’s occupation despite being a short-term temporary seasonal lay-off does not fall into one of the occupations that have been deemed by IWD to be excluded from RCM requirements. The undersigned lacks that jurisdiction and authority to undermine IWD’s judgment in this area.

DECISION:

The December 21, 2022, (reference 01) unemployment insurance decision is affirmed. The claimant is required to begin making employment contacts. Therefore, the notice issued was appropriate and shall remain in claimant's file.

A handwritten signature in blue ink that reads "Jason Dunn". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Jason Dunn
Administrative Law Judge

January 30, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.