

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIM A THOMPSON
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 20A-UI-10378-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant/appellant, Tim A. Thompson, filed an appeal from the August 24, 2020 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that warned claimant to make at least two work search contacts per week. The parties were properly notified about the hearing. A telephone hearing was held on October 14, 2020. The claimant participated.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources by dialing 211 or at <https://dhs.iowa.gov/node/3250>

ISSUES:

Was claimant able to and available for work for the week of August 9-15, 2020?
Did the claimant make an adequate work search for the week ending August 15, 2020, and was the warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of May 3, 2020 and established an additional claim effective August 9, 2020. Claimant worked eight hours on August 10, 2020 before separation from CIVCO Medical Solutions. The claimant claimed benefits for the week ending August 15, 2020. He did not make two work searches for that week. Claimant was not able to and available for work due to personal, family issues.

Since September 30, 2020, claimant has been receiving in-patient treatment for a personal condition. He has been unable to perform full-time work.

REASONING AND CONCLUSIONS OF LAW:

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. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The claimant has not sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending August 15, 2020. Accordingly, the warning was appropriate.

The issue of whether the claimant is able to and available for work effective September 30, 2020 is remanded to the Benefits Bureau for an initial investigation and decision.

DECISION:

The unemployment insurance decision dated August 24, 2020, (reference 03) is affirmed. The claimant did not make an active and earnest search for work for the week ending August 15, 2020. Therefore, the warning was appropriate.

REMAND: The issue of whether the claimant is able to and available for work effective September 30, 2020 is remanded to the Benefits Bureau for an initial investigation and decision.

Jennifer L. Beckman

Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

October 16, 2020
Decision Dated and Mailed

jlb/scn

Note to Claimant: This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.* If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at

<https://www.iowaworkforcedevelopment.gov/pua-information>.