

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID M WHITAKER**  
Claimant

**APPEAL 21A-UI-15979-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/04/21  
Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Able and Available/Work Search  
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work  
Iowa Admin. Code r. 871-24.23(28) – Work Search Warning

**STATEMENT OF THE CASE:**

David M Whitaker, the claimant/appellant, filed an appeal from the July 13, 2021, (reference 02) unemployment insurance decision that warned him to make at least two work-search contacts per week but did not deny benefits. Mr. Whitaker was properly notified of the hearing. A telephone hearing was scheduled for September 10, 2021. No hearing was held as there was sufficient information in the appeal letter and administrative record to resolve the matter without testimony. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Was the work search warning appropriate?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Whitaker claimed benefits for the week ending July 10, 2021. Mr. Whitaker made at least two work searches that week. Mr. Whitaker was not sure how to report his work searches.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that Mr. Whitaker has made an active and earnest search for work.

Iowa Code § 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 96.19, subsection 38, paragraph "b", unnumbered paragraph (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.

Mr. Whitaker has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending July 10, 2021. Accordingly, the warning was inappropriate.

**DECISION:**

The July 13, 2021, (reference 02) unemployment insurance decision is reversed. Mr. Whitaker did make an active and earnest search for work for the week ending July 10, 2021. Therefore, the warning was inappropriate.



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

September 16, 2021  
Decision Dated and Mailed

dz/ol