

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

JOHN T DOLEHIDE
Claimant

APPEAL NO. 22A-UI-18390-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 10/16/22
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

STATEMENT OF THE CASE:

On October 27, 2022, John Dolehide (claimant) filed a timely appeal from the October 25, 2022 (reference 01) decision that reminded the claimant he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search requirement. The reference 01 decision was prompted by the claimant's weekly claim for the week ending October 22, 2022. After due notice was issued, a hearing was held on November 17, 2022. Claimant participated. Exhibit A, the emailed appeal, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, and the IowaWORKS.gov entries for the week ending October 22, 2022.

ISSUES:

Whether the claimant met the work search/reemployment activities requirement during the week that ended October 22, 2022.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: John Dolehide (claimant) established an original claim for benefits that was effective October 16, 2022. The claimant resides in Cedar Rapids. The claimant has unwisely delegated to his spouse responsibility for making weekly claims and responsibility for entering required work search and reemployment activities information at IowaWORKS.gov.

At the time the claimant or his spouse established the claimant's original claim for benefits, the application process required the claimant acknowledge his obligation to read, know and follow the information contained in the Unemployment Insurance Claimant Handbook. The portion of the handbook regarding Continued Eligibility begins with the following notice:

WORK SEARCH REQUIREMENTS

NOTICE: AS OF JANUARY 9TH, 2022, REEMPLOYMENT ACTIVITIES REQUIREMENTS CHANGED FROM TWO (2) TO FOUR (4). THREE (3) OF THOSE REEMPLOYMENT ACTIVITIES ARE REQUIRED TO BE JOB APPLICATIONS. YOU ARE REQUIRED TO CREATE AN IOWAWORKS PROFILE AND CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU WILL UTILIZE IOWAWORKS TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU ARE REQUIRED TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES PRIOR TO FILING YOUR WEEKLY CLAIM.

Unemployment Insurance Claimant Handbook 2022. In addition, the confirmation page at the end of the initial application process would have provided similar information.

The claimant's spouse made weekly claims for the claimant that included a weekly claim on October 23, 2022 for the week that ended October 22, 2022. In that weekly claim, the claimant's spouse reported the claimant made zero employer contacts and engaged in zero reemployment activities. The information provided in the weekly claim prompted the October 25, 2022 (reference 01) work search warning decision from which the claimant appeals in the present matter.

On October 21, 2022, the claimant's spouse entered work search and reemployment activities information at IowaWORKS.gov regarding the benefit week that ended October 22, 2022. The claimant's spouse indicated that on October 17, 2022, the claimant applied for two jobs: Technician job at Iowa Beverage Systems, Inc. in Des Moines and Maintenance and Repair Worker at Express Employment Professionals in Cedar Rapids. The claimant's spouse indicated the claimant applied for a Maintenance and Repair Worker position at "PCI Urology" in Cedar Rapids on October 18, 2022. The claimant's spouse indicated the claimant applied for a Carpenter position at "KSIB" in Creston on October 21, 2022. The claimant's spouse entered information at IowaWORKS.gov on October 21, 2022, but did not certify the information until October 28, 2022. Because the information entered at IowaWORKS.gov was not certified during the week that ended October 22, 2022, the IowaWORKS.gov database did not communicate the work search information to the weekly claim reporting system.

Despite the information the claimant's spouse entered at IowaWORKS.org about four job applications during the week that ended October 22, 2022, the claimant can only confirm two job applications during that week. The claimant applied for a maintenance mechanic position at Express Employment Professionals by submitting a resume through indeed.com on October 14, 2022, rather than during the week of October 16-22, 2022 as his spouse reported. The claimant applied for a Maintenance Ambassador position with PCI Municipal Services by submitting a resume through indeed.com on October 18, 2022, rather than for a position with PCI Urology as his spouse reported. The claimant recalls applying for an assembly build line position with Woodcrafters in Marion, but cannot recall when he applied. The claimant recalls applying for a construction laborer position with Kinzler Construction Services on October 20, 2022, rather than during the week of October 16-22, 2022. The claimant indicates his application with Iowa Beverage Systems was not during the week that ended October 22, 2022. The claimant recalls participating in an interview, but cannot remember the date of the interview.

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 96.19, 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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(27) and (28) provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek 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.

The claimant did not meet the work search/reemployment activities requirement during the week that ended October 22, 2022. The weight of the evidence indicates only two job applications

that week. The claimant did not certify job applications by October 22, 2022 as required. The claimant did not follow the appropriate steps to report any job applications through the weekly claims reporting system. The work search warning decision was appropriate and remains in effect.

DECISION:

The October 25, 2022 (reference 01) work search warning decision is AFFIRMED. The claimant did not meet the work search/reemployment activities requirement during the week that ended October 22, 2022. The claimant may be disqualified for benefits for future weeks in which the claimant does not meet the work search requirements. The claimant, not his spouse, is personally responsible for meeting the eligibility requirements, which include complying with the works search reporting requirements.



James E. Timberland
Administrative Law Judge

November 21, 2022
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>.

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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.