

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBECCA M BEATHAM
Claimant

APPEAL 17A-UI-10136-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/29/17
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(3) – Earnest and Active Search for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 28, 2017, (reference 05) unemployment insurance decision that denied benefits for the week of September 3, 2017, based on claimant's failure to perform an adequate work search. The parties were properly notified of the hearing. A telephone hearing was held on October 19, 2017. The claimant participated and testified.

ISSUE:

Did the claimant make an adequate search for work the week-ending September 9, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week-ending September 9, 2017. When making her claim for that week, claimant accidentally reported she had zero job contacts. In reality, claimant had submitted her resume to one employer online and applied with another employer in-person. Both jobs were nearby claimant's place of residence and in the field of nursing, where she has education and prior work experience. Claimant had not previously applied for either employer. Claimant testified she has since revised her process for making her weekly claim to ensure further reporting errors do not occur.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made an active and earnest search for work for the week in question.

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) 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.

Claimant testified she inadvertently reported having zero job contacts for the week beginning September 3 and ending September 9, 2017. Claimant identified two employers at which she applied during the week in question. The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending September 9, 2017. Accordingly, benefits are allowed, provided she is otherwise eligible.

DECISION:

The September 28, 2017, (reference 05) unemployment insurance decision is reversed. The claimant did make an active and earnest search for work for the week-ending September 9, 2017. Benefits are allowed, provided the claimant is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/scn