

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHELE M SPENCE
Claimant

APPEAL 21A-UI-14939-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/16/21
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available/Work Search
Iowa Administrative Code R. 871-24.22(3)- Earnestly and Actively Seeking Work
Iowa Admin. Code r. 871—24.2

STATEMENT OF THE CASE:

On July 1, 2021, Michele M. Spence (claimant) filed an appeal from the June 29, 2021, reference 02, unemployment insurance decision that warned her to make at least two work-search contacts per week but did not deny benefits for the week ending June 26, 2021. After due notice was issued, a telephone conference hearing was held on August 26, 2021. The claimant participated.

ISSUE:

Did the claimant make an adequate work search for the week ending June 26, 2021, and was the warning appropriate?

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 June 26, 2021. Claimant did not make two work searches for that week. Claimant believed she was not required to make two work searches for that week because she is temporarily on a reduced hours. Claimant filed for benefits beginning week ending May 22, 2021. For week ending May 29, 2021, claimant reported that she was laid off. Claimant testified she was not laid off but was on reduced hours. Claimant is still on the reduced hours and will continue for another three weeks. Claimant has been coded as a group “6” code in DBRO and is required to make two work searches per week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not 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—24.2 provides in part:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.

b. When filing an initial claim for benefits, an individual must provide the following information to the department: (1) The name and complete mailing address of such individual's last employing unit or employer including work history for all employers within the individual's base period. (2) The location of the last job. (3) Last day of work. (4) The reason for separation from work. (5) That such individual is unemployed. (6) That the individual registers for work. (7) The individual's last job occupation. (8) Number, full name, social security number, date of birth, and relationship of any dependents claimed. The identity of an individual identified as a dependent shall be verified by the department before the individual is added to the claim as a dependent. As used in this subparagraph, "dependent" is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant or stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin. A "spouse" is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim. A "dependent" means an individual who has been claimed for the preceding tax year on the claimant's income tax return. The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current

claim. (9) The individual's social security number and alien registration number, if applicable.
(10) Such other information as required by the department.

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. A group code will be assigned to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. A group code change can be made at any time during the benefit year if additional information is obtained by the agency.

The group codes are:

(1) Group "3" claimants are workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, of four consecutive weeks or less, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular "employer." This group pertains only to those individuals who worked full-time and will again work full-time if the individuals' employment, although temporarily suspended, has not been terminated. After a period of temporary unemployment, claimants in this group are reviewed for placement in group "5" or "6."

(2) Group "4" claimants are those individuals who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job. Group "4" claimants shall have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The group "4" code shall not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(3) Group "5" claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership must be maintained. Contact must be made weekly to check for available work. Loss of membership shall result in an assignment to group "6."

(4) Group "6" claimants are those individuals who do not otherwise meet the qualification group code "3," "4," or "5." This group must complete and document work searches made either in-person, online or by submitting a resumé.

(5) Group "7" claimants are workers who are employed on a reduced workweek with an employer who is under voluntary shared work contract approved by the department. This group pertains only to those individuals who worked full-time and will again work full-time if the individuals' employment, although temporarily suspended, has not been terminated. Once the contract expires, claimants in this group are reviewed for placement in group "3," "4," "5," or "6."

(6) Group "8" claimants are workers who are part of a federally declared emergency. Once the emergency period expires, claimants in this group are reviewed for placement in group "3," "4," "5," or "6."

(emphasis added).

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.

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 June 26, 2021. Claimant testified she is temporarily on reduced hours and continues to be on reduced hours, however, the reduced hours have exceeded four consecutive weeks so the claimant must complete two work searches each week. Accordingly, the warning was appropriate.

DECISION:

The June 29, 2021, reference 02, unemployment insurance decision is affirmed. The claimant did not make an active and earnest search for work for the week ending June 26, 2021. Therefore, the warning was appropriate.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

August 30, 2021
Decision Dated and Mailed

cs/kmj