

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**VICKI L STELKEN**  
Claimant

**APPEAL NO: 18A-UI-11327-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/23/18  
Claimant: Appellant (2)**

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:**

The claimant filed an appeal from the November 14, 2018, (reference 04) unemployment insurance decision that warned claimant to make at least two work-search contacts per week but did not deny benefits for the week-ending November 10, 2018.

The claimant was properly notified about the hearing. A telephone hearing was held on December 5, 2018. The claimant participated personally. Carrie Temperly, vice president of human resources for Hartig Drugstore, also testified. The administrative law judge took official notice of the administrative records including the fact-finding documents. Claimant Exhibit A was admitted into evidence. 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.

**ISSUE:**

Did the claimant make an adequate work search for the week ending November 10, 2018, 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 an unemployment insurance claim effective September 23, 2018. When she established her claim, she read the claimant handbook online, as directed and also her monetary determination. Both the handbook and monetary determination outlined the job search requirements in order to be eligible for unemployment insurance benefits.

For the week of November 10, 2018, the claimant accidentally pressed a “1” instead of “2” when answering the question about how many employer contacts she made for the week. The answer was incorrect because the claimant did make two searches. Ms. Temperly confirmed

that Hartig Drugstore received two separate applications for that week. The claimant applied to be a driver in the Dubuque location, and a cashier at the Dyersville location.

### 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 and was available for work during the week ending November 10, 2018.

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. 871-24.23(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.

Iowa Admin. Code r. 871-24.22(3) provides in pertinent part:

**Benefit 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.

**24.22(3) Earnestly and actively seeking work.** Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

*a. Basic requirements.* An individual shall be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The circumstances in each case are considered in determining whether an earnest and active search for work has been made. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for

work if found by the department to constitute a reasonable means of securing work by the individual, under the facts and circumstances of the individual's particular situation:

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending November 10, 2018. The indication of the claimant making only one job search contact was due to a clerical error. Accordingly, the warning was not appropriate.

**DECISION:**

The November 14, 2018, (reference 04) unemployment insurance decision is reversed. The claimant did make an active and earnest search for work for the week ending November 10, 2018. Therefore, the warning was not appropriate. The claimant was available for work the same week and is eligible for benefits for the reasons stated above.

---

Jennifer L. Beckman  
Administrative Law Judge

---

Decision Dated and Mailed

jlb/scn