

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WAYNE E JONES**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 23A-UI-11307-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/25/22**  
**Claimant: Appellant (4)**

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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

**STATEMENT OF THE CASE:**

On December 5, 2023, claimant Wayne E. Jones filed an appeal from the November 30, 2023 (reference 08) unemployment insurance decision that denied benefits for the week ending March 25, 2023 due to inadequate reemployment activities logged and certified that week. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Thursday, December 21, 2023. Appeal numbers 23A-UI-11301-LJ-T, 23A-UI-11302-LJ-T, 23A-UI-11303-LJ-T, 23A-UI-11304-LJ-T, 23A-UI-11305-LJ-T, 23A-UI-11306-LJ-T, 23A-UI-11307-LJ-T, and 23A-UI-11308-LJ-T were heard together and created one record. Claimant Wayne E. Jones participated. Iowa Workforce Development (“IWD”) did not participate. No exhibits were admitted into the hearing record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Whether claimant is able to and available for work.  
Whether claimant failed to make an active work search.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

IWD mailed the reference 01 decision to claimant’s last-known address of record on February 1, 2023. Claimant did not receive the decision. He did however receive the reference 02 work search warning that was mailed the following day. When he received that document, he went to the local IowaWorks office in Sioux City and spoke with an employee. He asked for advice, as he was on a seasonal layoff and the employer relied on him to come back in the spring. The IWD employee recommended that he speak with his employer and see if he could work three or four hours each week so he would become exempt from the work search requirement.

Claimant went to his employer and talked to Jay in the office. Jay then talked with the area manager, and they agreed to let claimant come in and work three or four hours each week so that he would remain eligible for benefits yet be exempt from the work search requirement.

Claimant returned to work the week of February 12, 2023, and he reported his gross wages each week once he began working. The chart below reflects claimants weekly claim filings once he returned to work in February 2023:

<b>Week Ending</b>	<b>Gross Wages Reported</b>	<b>Benefits Received</b>
February 18, 2023	\$136.00	\$482.00
February 25, 2023	\$51.00	\$495.00
March 4, 2023	\$51.00	\$495.00
March 11, 2023	\$51.00	\$495.00
March 18, 2023	\$51.00	\$495.00
March 25, 2023	\$558.00	\$0.00

Claimant did not file an appeal at the time, because he returned to work and thought he had resolved the issue. Later, on November 30, he received six denial decisions for the weeks ending February 18; February 25; March 4; March 11; March 18; and March 25, 2023. Claimant appealed those decisions on December 5, and that appeal was also applied to the February 1 and February 2 decisions.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not required to search for work for the week in question because he was partially unemployed.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

(Emphasis added.)

Iowa Code § 96.1A(37) provides in relevant part:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

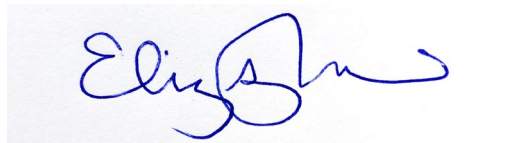
(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

Claimant returned to working part time for his employer the week of February 12, 2023. Each week, beginning that week and through the week ending March 25, 2023, claimant worked several hours and reported the gross wages he earned when filing his weekly claim for unemployment insurance benefit. Because claimant was employed at his regular job, working less than his regular full-time week and earning less than his weekly benefit amount plus fifteen dollars, claimant meets the statutory definition of partially unemployed. Therefore, he was not required to search for work. The decision is modified in his favor and benefits are allowed.

**DECISION:**

The November 30, 2023 (reference 08) unemployment insurance decision is modified in favor of the claimant/appellant. Claimant was partially unemployed during the week in question and was not required to search for work. Benefits are allowed.



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Elizabeth A. Johnson  
Administrative Law Judge

December 27, 2023  
Decision Dated and Mailed

lj/scn

**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  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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.