

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MERRILL E CRAWFORD
Claimant

APPEAL 20A-EUCU-00014-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/29/19
Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

Claimant filed an appeal from the November 5, 2020 (reference 01) unemployment insurance decision that warned claimant to make a minimum of two job contacts per week. Claimant was properly notified of the hearing. A telephone hearing was held on December 21, 2020, at 9:00 a.m. Claimant participated. Claimant's Exhibit A was admitted. Official notice was taken 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: Claimant has been employed by the City of Dubuque as a seasonal Swimming Pool Laborer for approximately 15 years. Claimant works in this capacity full-time from late April until late August. From late August until late April, claimant works on-call for the City of Dubuque performing other job duties. For example, in 2019, claimant worked as a Swimming Pool Laborer during the summer and filled in for another employee by working as a secretary from October 2019 through mid-December 2019. According to the administrative record, claimant earned no wages during the second quarter of 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the work search warning was appropriate and remains in effect.

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 Code section 96.19(38) provides:

"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.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

The work search requirement is waived if a claimant is temporarily unemployed. To be considered temporarily unemployed, a claimant must be unemployed for no more than four consecutive weeks due to lack of work at his regular job. Claimant's lack of work with the City of Dubuque lasted longer than four consecutive weeks. Therefore, claimant is not considered temporarily unemployed and is not exempt from the work search requirement. Accordingly, the work search warning was appropriate and remains in effect.

The issue of whether claimant is holding himself available for work only with the City of Dubuque will be remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and decision.

DECISION:

The November 5, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant is subject to the work search requirement. The work search warning was appropriate and remains in effect.

REMAND:

The issue of whether claimant is holding himself available for work with only one employer is remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and decision.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 19, 2021
Decision Dated and Mailed

acw/scn