

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANA L BROWN
Claimant

APPEAL 21A-UI-01138-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/12/20
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work/Work Search Warning

STATEMENT OF THE CASE:

The claimant/appellant, Jana L. Brown, filed an appeal from the December 1, 2020 (reference 01) Iowa Workforce Development (“IWD”) 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 21, 2020.

The claimant waived proper notice and a telephone hearing was conducted on February 5, 2021. The claimant participated. The administrative law judge took official notice of the administrative records. 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 21, 2020, 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 a claim for benefits with an effective date of January 12, 2020 and established an additional claim effective November 22, 2020 in response to a temporary layoff from her employer (see Reference 02) decision. The administrative record does not support claimant was notified of the requirement to complete an active job search prior to the warning decision dated December 1, 2020 being issued.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the work search warning was not warranted and shall be removed.

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 38, paragraph "b", subparagraph (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.

In this case, claimant established an additional claim to her existing claim year due to a short-term layoff with her employer. (See reference 02 decision). Claimant is still attached to the employer, and was not given reasonable notice that she must conduct a work search warning. Claimant was otherwise able and available for work for the week ending November 21, 2020. Accordingly, the administrative law judge concludes the work search warning was not warranted under the conditions and shall be removed from her file.

DECISION:

The decision dated December 1, 2020 (reference 01) is reversed. The work search warning was not warranted and shall be removed from claimant's file.



Jennifer L. Beckman
Administrative Law Judge
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February 22, 2021
Decision Dated and Mailed

jlb/mh