

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

DUSTIN MAZGAJ
Claimant

APPEAL NO. 24A-UI-03942-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/03/24
Claimant: Appellant (1R)**

Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

STATEMENT OF THE CASE:

On April 18, 2024, Dustin Mazgaj (claimant) filed a timely appeal from the April 9, 2024 (reference 02) decision that reminded the claimant he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search/reemployment activities requirement. After due notice was issued, a hearing was held on May 3, 2024. Claimant participated. Exhibits A through F were received into evidence. The administrative law judge took official notice of the following agency administrative records: KCCO, DBRO, WAGEA and IowaWORKS.gov.

ISSUES:

Whether the claimant was able to work and available for work during the week that ended April 6, 2024.

Whether the claimant met the work search/reemployment activities requirements during the week that ended April 6, 2024.

FINDINGS OF FACT:

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

Dustin Mazgaj (claimant) established an original claim for benefits that was effective March 3, 2024. The claimant made weekly claims for each consecutive week since establishing the claim, including a claim for the week that ended April 6, 2024. The claimant resides in Marengo.

At the time the claimant established the original claim for benefits, the application process required the claimant to acknowledge an obligation to read, know and follow the information contained in the Unemployment Insurance Claimant Handbook. The portion of the handbook regarding Continued Eligibility sets forth the requirement of four reemployment activities, including three job applications, each week of the claim, as well as the requirement to certify reemployment activities via IowaWORKS.gov prior to filing the weekly claim. The confirmation page at the end of the initial application process provided similar information.

Iowa Workforce Development has published additional information for unemployment insurance claimants on the agency's website. That information includes Unemployment Insurance Frequently Asked Questions (FAQs). The FAQ page includes the following question and answer:

How many employer contacts do I need to make each week?

You are required to complete 4 reemployment activities, 3 of them being job applications, each week between Sunday and Saturday of the week you are claiming benefits. The job applications can be made in person, online, by mail or by fax. Calling employers does not count as a job contact. *You may apply for the same position with the same employer once every six weeks.* You are required to create an IowaWORKS profile and certify your reemployment activities. You will utilize IowaWORKS to certify your reemployment activities. You are required to certify your reemployment activities prior to filing your weekly claim.

[Emphasis added.] See <https://workforce.iowa.gov/unemployment/resources/ui-faq>

During the fifth week of the claim, the week that ended April 6, 2024, the claimant applied for three jobs with the same prospective employer, Timberline Manufacturing Company. Timberline is located in Marion. Marion is part of the Cedar Rapids-Marion-Hiawatha metropolitan area, Iowa's second largest labor market. The three jobs the claimant applied for that week were Advanced Harness Assembler, Industrial Engineering Tech, and Production Supervisor. The claimant applied online for all three jobs between 4:32 p.m. and 4:36 p.m. on Friday, April 5, 2024. The claimant did not apply for any other jobs or with any other prospective employer during that week. During the week that ended April 6, 2024, the claimant participated on April 4, 2024 in an Iowa Workforce Development online workshop for job seekers.

The claimant entered his job search information for the week ending April 6, 2024 into IowaWORKS.gov. The claimant used that same website to certify *four* job applications and *two* reemployment activities. The fourth job application documented in the IowaWORKS.gov database was Industrial Technician with Timberline and may have been a duplicate of another entry for that week for Industrial Engineering Tech at Timberline. It is unclear what the second reemployment activity may have been.

When the claimant made his weekly claim for the week that ended April 6, 2024 through the weekly claim reporting system, the Iowa Workforce Development computer system documented just one job application and the two reemployment activities. The computer system denied credit for all but one of the applications to Timberline. Based on the weekly claim data documenting one job application, the computer system generated the April 9, 20224 (reference 02) work search warning decision from which the claimant appeals in the present matter.

Prior to the week of March 31, 2024, the claimant had applied 12 times with Timberline.

During the first week of the claim, the week that ended March 9, 2024, the claimant applied four positions with Timberline, including Advanced Harness Assembler. The claimant did not apply for work with any other employer during that week.

During the second week of the claim, the week that ended March 16, 2024, the claimant applied for four positions with Timberline, including Production Supervisor. The claimant did not apply for work with any other employer during that week.

During the third week of the claim, the week that ended March 23, 2024, the claimant applied for three positions with Timberline. The claimant did not apply for work with any other employer during that week.

During the fourth week of the claim, the week that ended March 30, 2024, the claimant applied for three jobs, with one of those being with Timberline and the two others at the Johnson County Courthouse.

REASONING AND CONCLUSIONS OF LAW:

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. ...

Iowa Admin. Code r. 871-24.22(2)(m) provides:

Benefits 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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

m. Restrictions and reasonable expectation of securing employment. An individual may not be eligible for benefits if the individual has imposed restrictions which leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, *location of work*, etc., or may be physical restrictions.

[Emphasis added.]

Iowa Admin. Code r. 871-24.22(3)(a)(1) provides:

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:

(1) Making application with *employers* as may reasonably be expected to have openings suitable to the individual.

[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 did not engage in an active and earnest search for new employment during the week that ended April 6, 2024. The claimant unduly restricted his work search during that week to a single employer, Timberline. During that fifth week of the claim, the claimant applied for two Timberline jobs for which he had already applied during earlier benefit weeks. Spending a few minutes late on a Friday afternoon applying for jobs one has already applied for within the preceding four weeks is neither an active nor earnest search for new employment.

The claimant's assertion that his restricted work search was reasonable or allowable is without merit. The claimant resides in Marengo, a bedroom community within about half an hour's drive of the state's second largest labor market, Cedar Rapids-Hiawatha-Marion, and another large labor market, Coralville-Iowa City-North Liberty. The claimant's conduct in applying for work with Timberline in Marion and at the courthouse in Iowa City reinforces the conclusion that a reasonable person in the claimant's unemployed status would actively and earnestly seek work throughout both metropolitan areas. The claimant's assertion that suitable full-time employment is scarce in the labor markets he has access to is without merit.

While disqualifying the claimant for benefits for the week ending April 6, 2024 is within the administrative law judge's jurisdiction, the administrative law judge will take the measured step of affirming the work search warning decision pertaining to the week that ended April 6, 2024 and remanding the matter to IWD Benefits Bureau for careful consideration of whether the claimant continued to unduly restrict his availability for work during the benefit weeks subsequent to April 6, 2024 and whether the claimant was overpaid benefits for those subsequent weeks.

DECISION:

The April 9, 2024 (reference 02) work search warning decision regarding the week that ended April 6, 2024 was warranted and is AFFIRMED.

REMAND:

This matter is REMANDED to IWD Benefits Bureau for careful consideration of whether the claimant continued to unduly restrict his availability for work during the benefit weeks subsequent to April 6, 2024 and whether the claimant was overpaid benefits for those subsequent weeks.



James E. Timberland
Administrative Law Judge

May 6, 2024
Decision Dated and Mailed

JET/jkb

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 Ave 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>.

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 Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.