

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCUS Q KELLER
Claimant

APPEAL NO: 13A-UI-13240-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/27/13

Claimant: Appellant (4)

Section 96.4-3 - Active Search for Work

STATEMENT OF THE CASE:

Marcus Q. Keller (claimant) appealed a representative's November 22, 2013 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits for the period from October 27 through November 16, 2013 due to a conclusion he had not made an adequate search for work. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was held on December 26, 2013. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by performing an adequate search for work for the period of October 27 through November 16, 2013?

FINDINGS OF FACT:

The claimant established an unemployment insurance benefit year effective October 27, 2013. While the claimant did receive the "Facts About Unemployment Insurance" handbook, he did not make a search for work for the first three weeks of his claim because he thought he needed to wait to hear if his claim was approved. However, contrary to the language in the representative's decision that the claimant had previously been issued a warning, there is no record on file of any prior work search warning being issued to the claimant.

Agency records indicate that after the claimant made his appeal of this decision on December 2, 2013, another representative's decision was issued on December 5, 2013 (reference 01) which concluded that the claimant had a disqualifying separation from his prior employer. As of the date of the decision in this matter, that decision has not been appealed and remains in full force and effect.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. Iowa Code §96.4-3 and 871 IAC 24.22(3) provide that a claimant must make a personal and diligent effort to find a job and that a claimant shall be ineligible for benefits for any period for which the Agency finds the individual failed to make an earnest and active search for work. However, the claimant had not previously been issued a work search warning. Therefore, while a warning is warranted, the disqualification issued to the claimant in the representative's decision is not appropriate. The disqualification is modified to become a warning. Benefits would be allowed for the three-week period in question, if the claimant was otherwise eligible. However, Agency records indicate that the claimant is not otherwise eligible, due to the subsequent separation disqualification decision issued on December 5, 2013.

DECISION:

The representative's November 22, 2013 decision (reference 02) is modified in favor of the claimant. The claimant did not make an appropriate work search during the three-week period ending November 16, 2013, but the claimant had not been previously issued a work search warning. The disqualification is modified to be a work search warning. The claimant would be qualified to receive unemployment insurance benefits for the period in question, if he was otherwise eligible, which he is currently not otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs