

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NEIL BELKEN
Claimant

APPEAL 21A-UI-13652-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/16/21
Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 2, 2021, (reference 02), 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 May 29, 2021. After due notice was issued, a telephone conference hearing was scheduled to be held on July 24, 2021. The claimant participated.

ISSUE:

Did the claimant make an adequate work search for the week ending May 29, 2021, and was the warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending May 29, 2021. He did not make two work searches for that week. The claimant is not able to work because he is too ill. He is also pursuing his education and is a full-time student.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not made an active and earnest search for work. Furthermore, the claimant was not able and available for work effective May 29, 2021.

Iowa Code § 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 Admin. Code r. 871-24.23(1)(28) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

(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.

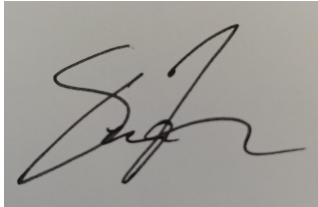
The claimant has not sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending May 29, 2021. Accordingly, the warning was appropriate.

DECISION:

The June 2, 2021 (reference 02), unemployment insurance decision is affirmed. The claimant did not make an active and earnest search for work for the week ending May 29, 2021.

REMAND:

The administrative law judge is remanding to the Benefits Bureau the issue regarding whether the claimant is able and available for an initial determination.



Sean M. Nelson
Administrative Law Judge
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July 30, 2021
Decision Dated and Mailed

smn/kmj