

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MARY K SAVOLT**  
Claimant

**APPEAL 16R-UI-12459-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 04/10/16**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(27) – Active and Earnest Search for Work

**STATEMENT OF THE CASE:**

Mary K. Savolt (claimant) filed an appeal from the September 14, 2016 (reference 03) unemployment insurance decision that denied benefits based upon the determination she did not make an adequate work search after having been warned to do so. After due notice was issued, a telephone conference hearing was held on December 9, 2016. The claimant participated.

**ISSUES:**

Is the claimant able to work and available for work effective August 28, 2016?

Did the claimant make adequate searches for work the weeks ending October 3 and 10, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the two weeks ending October 3 and 10, 2016. The claimant did make two work searches for each week. She applied for positions with Countertops, Inc. and St. Elizabeth Pastorate during the week ending October 3, 2016. She applied for positions with Bicounty Disposal and Staiger Transport the following week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant has made active and earnest searches for work for the weeks in question.

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. 871-24.22(2) 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.

Iowa Admin. Code r. 871-24.23(27) provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that she made active and earnest searches for work for the weeks ending October 3 and 10, 2016. Accordingly, benefits are allowed.

**DECISION:**

The September 14, 2016, (reference 03) unemployment insurance decision is reversed. The claimant made active and earnest searches for work for the weeks ending October 3 and 10, 2016. Benefits are allowed, provided the claimant is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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