

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

KAITLIN R MASON
Claimant

APPEAL NO. 23A-UI-10435-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/18/23
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available, Reemployment Activities Requirement

STATEMENT OF THE CASE:

On November 5, 2023, Kaitlyn Mason (claimant) filed a timely appeal from the October 26, 2023 (reference 14) decision that denied benefits for the week that ended July 15, 2023, based on the deputy's conclusion Ms. Mason did not meet the reemployment activities requirements during that week and had earlier been warned about the requirements. After due notice was issued, a hearing was held on November 27, 2023. Ms. Mason participated. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, and IowaWORKS.gov.

ISSUES:

Whether the claimant was able to work and available for work during the week that ended July 15, 2023.

Whether the claimant met the work search/reemployment activities requirements during the week that ended July 15, 2023.

FINDINGS OF FACT:

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

Kaitlin Mason (claimant) established an original claim for benefits that was effective June 18, 2023. At that point, Ms. Mason had most recently worked as a full-time daycare teacher. Ms. Mason has an Associate of Applied Science (AAS) degree in Early Childhood Education. Ms. Mason had an individualized education plan (IEP) in high school and, with support from her mother, completed her AAS degree at DMACC in four years. Ms. Mason struggles with reading comprehension and learns best through hands-on training.

When Ms. Mason established her unemployment insurance claim, she did so with her mother's assistance. Ms. Mason does not recall the application confirmation page or the information included on that page.

Ms. Mason attempted to review the Unemployment Insurance Claimant Handbook but struggled to understand the information contained in the handbook.

Ms. Mason received verbal instruction from an Iowa Workforce Development employee regarding the steps involved in making weekly claims. Ms. Mason thought she understood the steps, but did not fully understand the weekly claim reporting requirements. Ms. Mason thought she was “certifying” her weekly claim information when she entered her work search information into the IowaWORKS.gov website. Ms. Mason did not actually certify work search activities for any week of her claim. Ms. Mason made weekly claims through the weekly claim reporting system. However, because Ms. Mason was not certifying her work search information, the weekly claim reporting system consistently tallied her weekly work search and reemployment activity numbers as zeros.

Issues with the weekly claim reporting requirements led Iowa Workforce Development to issue the June 29, 2023 (reference 02) work search warning decision.

Ms. Mason’s weekly claims included a claim for the week that ended July 15, 2023. During that week, Ms. Mason was willing, ready and able to look for work and to begin a new employment, if offered. During that week, Ms. Mason applied for four jobs. Ms. Mason entered her work search information at IowaWORKS.gov. Ms. Mason made a timely weekly claim but did not first certify the accuracy of her work search information through IowaWORKS.gov. This oversight prompted the disqualification decision from which Ms. Mason appeals.

Through her efforts, Ms. Mason was eventually able to locate another childcare employment.

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. 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(28) 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.

(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.

At the time the claimant established the original claim for benefits, the application process required the claimant 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 begins with the following notice:

WORK SEARCH REQUIREMENTS

NOTICE: AS OF JANUARY 9TH, 2022, REEMPLOYMENT ACTIVITIES REQUIREMENTS CHANGED FROM TWO (2) TO FOUR (4). THREE (3) OF THOSE REEMPLOYMENT ACTIVITIES ARE REQUIRED TO BE JOB APPLICATIONS. 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.

Unemployment Insurance Claimant Handbook 2022. In addition, the confirmation page at the end of the initial application process would have provided similar information.

The weight of the evidence in the record establishes that the claimant was able to work, available for work, and engaged in an active and earnest search for new employment during the week that ended July 15, 2023. IWD's three-step weekly claim reporting protocol exceeded this claimant's cognitive ability to comprehend and comply. The claimant actively searched for work in good faith. The claimant entered her work search information at IowaWORKS.gov in good faith. The claimant made a timely weekly claim in good faith. The claimant made a good faith error by not certifying her work search/reemployment activities at IowaWORKS.gov. But the error was attributable to the claimant's inability to comprehend and comply, and was not the result of carelessness, negligence or a decision not to comply. The claimant is eligible for benefits for the week that ended July 15, 2023, provided she meets all other eligibility requirements.

DECISION:

The October 26, 2023 (reference 14) decision is REVERSED. The claimant was able to work, available for work, and engaged in an active and earnest search for new employment during the week that ended July 15, 2023. The claimant is eligible for benefits for the week that ended July 15, 2023, provided she meets all other eligibility requirements.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

November 29, 2023
Decision Dated and Mailed

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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.