

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOROTHY U PINGEL
Claimant

APPEAL 16A-UI-13662-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/11/16
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:

Dorothy U. Pingel (claimant) filed a timely appeal from the December 16, 2016, (reference 06) unemployment insurance decision that denied benefits for week ending November 26, 2016 due to inadequate job search after having been warned. After due notice was issued, a telephone conference hearing was set for January 18, 2017. The claimant participated.

ISSUE:

Is the claimant able to work and available for work effective November 20, 2016?
Did the claimant make an adequate search for work the week-ending November 26, 2016?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: The claimant filed her original claim for benefits during the week of September 11, 2016. She filed because Management & Training Corporation (employer) changed her hours from full-time to part-time. The employer did not protest her claim for benefits. The claimant continues to work for the employer in a part-time position.

For the week ending November 26, 2016, the claimant reported she did not make two job contacts. She had worked an additional 8 hours for her employer and felt she only needed to do one job search instead of two. On November 29, 2016, a notice was mailed to the claimant to report to IWD, via mail, about her job searches for week ending November 26, 2016. She filled out the letter and sent it back to IWD, but it was not received.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes whether the claimant made an adequate job search that week is moot as she is exempt from the job search requirement because she is only partially unemployed. Benefits are allowed.

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 Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "*totally unemployed*" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

An employee who is partially unemployed, or employed at her regular job working less than a full-time week and earning less than her weekly benefit amount plus fifteen dollars, is exempt from the job search requirements. The administrative record shows the claimant has full-time wages in her base period. She is now working a reduced schedule with the same employer. The claimant is partially unemployed and exempt from having to complete two job searches. Therefore, even though she only completed one job search for the week ending November 26, 2016, she is eligible for benefits effective November 20, 2016. Accordingly, benefits are allowed.

DECISION:

The December 16, 2016, (reference 06) unemployment insurance decision is reversed. The claimant is exempt from conducting her job searches as she is partially unemployed. Benefits are allowed effective November 20, 2016, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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