

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DELNO J PINNEY
Claimant

APPEAL 22A-UI-07624-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/19/21
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available/Work Search
871 IA Admin. Code § 24.22(3) – Work Search
Iowa Code § 96.1A(37) – Total and Partial Unemployment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 10, 2022, (reference 01), unemployment insurance decision that alerted claimant to make at least four work search contacts per week as of the date of the decision on March 10, 2022. After due notice was issued, a telephone conference hearing was scheduled to be held on May 11, 2022. Claimant participated.

ISSUE:

Does the claimant need to make work searches beginning March 10, 2022, and was the notice 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 March 13, 2022. For the previous 10 weeks, claimant filed for unemployment benefits. Claimant works for Udell Trucking, a company that operates on a seasonal basis and uses fewer drivers during the winter as they deliver supplies used for construction.

After four weeks, claimant continued filing for unemployment benefits, as he had not been called back to work. Claimant's work is not listed amongst those professions Iowa Workforce Development has chosen to exempt from work search requirements.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant does need to make an active and earnest search for work.

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".

b. Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry or a member in good standing of a union therein eligible for referral for employment. To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. For purposes of this paragraph, "short-term temporary layoff" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

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.

Iowa Code section 96.1A(37) 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.

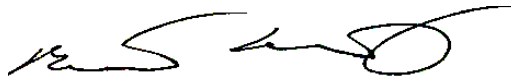
(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.

The claimant is no longer temporarily unemployed after four weeks' period of time. He does have to make work searches after four weeks away from his job. Accordingly, the alert was appropriate.

DECISION:

The March 10 2022, (reference 01) unemployment insurance decision is affirmed. The claimant does have to make an active and earnest search for work beginning on the week ending March 19, 2022. Therefore, the alert was appropriate.



Blair A. Bennett
Administrative Law Judge

June 3, 2022
Decision Dated and Mailed

bab/scn