

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARK FRENCH
Claimant

APPEAL 21A-UI-06603-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/12/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 19, 2021, (reference 01), 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 July 25, 2020. After due notice was issued, a telephone conference hearing was scheduled to be held on May 11, 2021. The claimant participated. The administrative law judge took official notice of the agency records.

ISSUE:

Did the claimant make an adequate work search for the week ending July 25, 2020, 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 week ending July 25, 2020. He did not make two work searches for that week because he was still employed at his regular job, but was on a leave of absence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not required to make an active and earnest search for work.

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(28) provides:

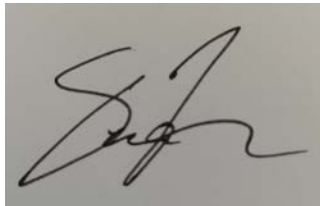
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

The claimant did not make work searches for the week in question because he was still employed at his regular job at the time. As a result, the work search criteria is waived for this period under Iowa Code § 96.4(3).

DECISION:

The February 19, 2021, (reference 01) unemployment insurance decision is reversed. The claimant did not make an active and earnest search for work for the week ending July 25, 2020. The claimant was still employed with his regular job and on a leave of absence, therefore the work search warning criteria is waived under Iowa Code § 96.4(3). Therefore, the warning was not appropriate.



Sean M. Nelson
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May 19, 2021
Decision Dated and Mailed

smn/scn