

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANDREW A VANWEY**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 22A-UI-07167-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/02/22  
Claimant: Appellant (1)**

Iowa Code § 96.4(3) - Able and Available/Work Search  
Iowa Code § 96.19(38) - Total, Partial and Temporary Unemployment

**STATEMENT OF THE CASE:**

Claimant/appellant, Andrew Vanwey, filed an appeal from the March 16, 2022, (reference 02), unemployment insurance decision that advised claimant they are required to seek work and keep a record of reemployment activities as records indicate they were no longer temporarily unemployed and therefore claimant they must actively seek work and conduct a minimum of four reemployment activities each week, three of which must be job applications. The parties were properly notified about the hearing. A telephone hearing was held on May 6, 2022. Claimant personally participated. The department, failed to participate. The following hearings were held together as part of a consolidated hearing: Appeals 22A-UI-07167-DH-T, and 22A-UI-07172-DH-T. Judicial notice was taken of the administrative record, including DBRO and KCCO.

**ISSUE:**

Is the claimant required to begin actively seeking work and making employment contacts?

**FINDINGS OF FACT:**

Having heard the testimony and reviewed the evidence in the record, the administrative law judge finds: The claimant is employed with Norwalk Ready Mix as a fulltime driver. He drives a cement truck to customers who have purchases concrete, drops off the amount purchased and goes on to the next delivery. Effective January 2, 2022, claimant filed a claim for unemployment insurance benefits due to a temporary seasonal layoff from employment. Claimant's employment is not classified in a set of trades and occupations that are exempt from making employment contacts for the duration of the claim year. Claimant became aware of this during his claim when advised he needed to seek employment and keep a record of his employment. He asserts that he has not sought employment, except for applying for a position with the city of Des Moines. When asked if he would accept employment if offered a job, claimant responded that he would if offered the Des Moines job, which by inference means he would not for any other. Since he has not applied for any jobs but the one, this matches and tracks.

Claimant has filed claims for thirteen weeks of benefits for benefit week ending (BWE) 01/08/22-04/02/22. His weekly benefit amount (WBA) is \$651.00. He reported income in weeks 01/08/22,

01/15/22 and 02/05/22 in amounts less than his WBA. Claimant reported no reemployment activities or job applications when filing his claims. Claimant has made just one job application during his time submitting claims.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not exempt from actively seeking work and making the minimum of four employment contacts on a weekly basis.

Iowa Code section 96.4(3)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. (a). 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 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

In this case, Iowa Workforce Development has made the policy decision to exempt workers in certain trade/occupation from weekly employment contacts. This exemption will ensure they are available to return to employment with their regular employer whenever called to return. Claimant does not fall within one of those trades. Therefore, the administrative law judge finds the claimant is required to make employment contacts and the notice issued was appropriate and must be complied. Claimant, at the time of the notice, is considered totally unemployed, given the time frame of the layoff exceeded the time to be temporarily unemployed and there was no reported income.

**DECISION:**

The March 16, 2022, (reference 02) unemployment insurance decision is **AFFIRMED**. Claimant was no longer temporarily unemployed, becoming totally unemployed. Therefore, claimant is required to actively seek work and conduct at least four reemployment activities, three of which must be job applications. Therefore, the notice issued was appropriate and shall be followed.

  
Darrin T. Hamilton  
Administrative Law Judge

May 31, 2022  
Decision Dated and Mailed

dh/kmj