

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHARLES W MASSNER
Claimant

APPEAL NO. 22A-UI-04298-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 08/01/21
Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On February 7, 2022, Charles Massner (claimant) filed a timely appeal from the February 4, 2022 (reference 05) decision that denied benefits for the week of December 19-25, 2021, based on the deputy's conclusion that the claimant was not able and available for work that week. After due notice was issued, a hearing was held on March 18, 2022. Claimant participated. The hearing in this matter was consolidated with the hearing in Appeal Number 22A-UI-04300-JT-T. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, NMRO, KFFV, the reference 02 and 03 decisions, and the work search records on the CID database.

ISSUES:

Whether the claimant was able to work and available for work during the week of December 19-25, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Charles Massner, established an original claim for benefits that was effective August 1, 2021. The claimant made weekly claims that included a weekly claim for the week that ended December 25, 2021. The claimant received benefits that included benefits for the week that ended December 25, 2021. When the claimant made his claim for the week that ended December 25, 2021, he responded that he was not able to work and/or not available for work. The claimant reported that he had made two employer job contacts that week. The claimant's reported job contacts for that week consisted receiving a written job offer from Eaton Corporation and receiving a formal verbal job offer from the same prospective employer, with both occurring on the same day, December 21, 2021. In other words, the claimant split what a reasonable person would view as a single event, a verbal job offer accompanied by a written job offer, into two purported employer job contacts.

On August 10, 2021, Iowa Workforce Development had issued a reference 02 work search warning decision to the claimant after the claimant reported just one job contact for the week that ended August 7, 2021. The work search warning reminded the claimant that he was

required to make two job contacts each benefit week and warned the claimant could be disqualified for benefits for future weeks during which the claimant did not meet the work search requirement.

On September 8, 2021, Iowa Workforce Development had issued a reference 03 decision that denied benefits for the week that ended August 14, 2021, based on the Agency's conclusion that the claimant did not make an adequate work search during that week and based on the earlier work search warning.

The claimant's weekly report for the week that ended December 25, 2021 prompted Iowa Workforce Development to schedule a fact-finding interview for February 1, 2022 to discuss the claim for the week that ended December 25, 2021.

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.

(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 evidence in the record establishes the claimant failed to make an active and earnest search for new work during the week that ended December 25, 2021. The claimant did not apply for any jobs that week. Rather, the claimant received a verbal job offer accompanied by a written job offer and engaged in no other work search activities that week. The claimant had previously been warned about the work search requirement and had thereafter been penalized for failure to meet the work search requirement. The evidence indicates that the claimant again failed to meet the work search requirement during the week that ended December 25, 2021.

DECISION:

The February 4, 2022 (reference 05) decision is AFFIRMED. The claimant did not engage in an active and earnest search for work during the week that ended December 25, 2021, did not meet the availability requirement that week, and is not eligible for benefits for that week.



James E. Timberland
Administrative Law Judge

March 31, 2022
Decision Dated and Mailed

jet/kmj