

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADRIENNE JOSEPH
Claimant

APPEAL 21A-UI-00925-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/18/20
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.22(3) – Work Search Warning

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 25, 2020 (reference 01) unemployment insurance decision that warned the claimant for failing to keep a record of the job contacts she made each week. After due notice was issued, a telephone hearing was held on February 12, 2021. The claimant participated personally. Elmarie Schilling participated on behalf of Iowa Workforce Development. Claimant's Exhibits A and B were admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did the claimant keep a record of her job contacts?
Was the claimant able to work and available for work?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant reported for a reemployment services appointment by telephone and was requested to provide her work search record. She forwarded the record to Ms. Schilling by email. See Exhibit A and B. The work record failed to include a telephone number for some employers and a result of the contact for some employers. A warning decision was issued to the claimant for a failure to keep a record of job contacts.

The claimant did not include phone numbers for the employers because they were not listed on the website she was using to apply with. Her applications were submitted electronically. The claimant also did not complete the "results of contact" portion of the record because she had not received any results to date of her contacts.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(3) provides in pertinent part:

Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnest and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contact which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

a. Basic requirements. An individual shall be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The circumstances in each case are considered in determining whether an earnest and active search for work has been made. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for work if found by the department to constitute reasonable means of securing work by the individual under the facts and circumstances of the individual's particular situation:

- (1) Making application with employers as may reasonably be expected to have opening suitable to the individual.
- (2) Registering with a placement facility of a school, college, or university if one is available in the individual's occupation or profession.
- (3) Making application or taking examination for openings in the civil service of a governmental entity with reasonable prospects of suitable work for the individual.
- (4) Responding to appropriate "want ads" for work which appears suitable to the individual if the response is made in writing or in person or electronically.
- (5) Any other action which the department finds to constitute an effective means of securing work suitable to the individual.
- (6) No individual, however, is denied benefits solely on the ground that the individual has failed or refuse to register with a private employment agency or at any other placement facility which charges the job-seeker a fee for its services. However, an individual may count as one of the work contacts required for the week an in-person contact with a private employment agency.

(7) An individual is considered to have failed to make an effort to secure work if the department finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

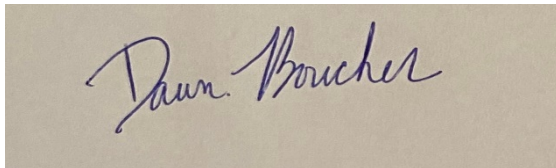
b. Number of employer contacts. It is difficult to determine criteria in which earnestly and actively may be interpreted. Much depends on the estimate of employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunities might be totally unacceptable in another area of unlimited opportunities. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in the individual's characteristics, job prospects in the community and other factors as the department deems necessary.

d. Week-to-week disqualification. Active search for work disqualifications are to be made on a week-to-week basis and are not open-end disqualification.

In this case, the claimant did not include phone numbers for the employers because they were not listed on the website she was using to apply with. Her applications were submitted electronically. The claimant also did not complete the "results of contact" portion of the record because she had not received any results to date of her contacts. Claimant established that she was able to and available for work during the weekly-continued claims that she filed. Claimant established that she was actively and earnestly seeking work as listed in her record of job contacts. The warning was inappropriate.

DECISION:

The November 25, 2020 (reference 01) decision is reversed. The claimant has established she was able to and available for work and was actively and earnestly seeking work. The warning was not appropriate.

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Dawn Boucher
Administrative Law Judge

February 23, 2021
Decision Dated and Mailed

db/scn