

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MANUEL J CHAVEZ
Claimant

APPEAL 16A-UI-02890-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/22/15
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 23, 2016 (reference 03) 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 February 20, 2016. After due notice was issued, a telephone conference hearing was scheduled to be held on March 29, 2016. Claimant participated.

ISSUE:

Did the claimant make an adequate work search for the week ending February 20, 2016 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 February 20, 2016. He did make one work search for that week, and reported to the Mason City office twice to speak with Julie about potential jobs and for a resume workshop.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made an active and earnest search for work and was available for work the week ending February 20, 2016.

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. 871-24.22 provides:

Benefit 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.

...
24.22(3) *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 earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts 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.

h. Job search assistance. Job search assistance classes, including reemployment services, which are sponsored by the department of workforce development and attended by the individual during a week may be counted as one of the individual's work search contacts for that week.

This rule is intended to implement Iowa Code Section 96.4(3).

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending February 20, 2016. Accordingly, the warning was not appropriate.

DECISION:

The February 23, 2016 (reference 03) unemployment insurance decision is reversed. The claimant did not make an active and earnest search for work for the week ending February 20, 2016. Therefore, the warning was not appropriate. The claimant was available for work the same week and is eligible for benefits for the reasons stated above.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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