

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

JASON K DATA

Claimant : **APPEAL NUMBER: 24B-UI-00143**
: **ALJ HEARING NUMBER: 24R-UI-00143**
:
: **EMPLOYMENT APPEAL BOARD**
: **DECISION**
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NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.6-2

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

STATEMENT OF THE CASE:

The Claimant, Jason Data, filed an appeal from the October 24, 2023, (reference 02), unemployment insurance decision that issued a warning to the Claimant for failing to participate in the required re-employment activities during the week ending October 21. A hearing was scheduled for November 14. On November 2, the Claimant requested to reschedule the hearing. The record shows no attempt was made to reschedule the hearing and, on November 15, the administrative law judge issued a decision dismissing the Claimant's appeal for failure to participate in the hearing or make a request to reschedule the hearing.

The Claimant appealed the administrative law judge's decision to the Employment Appeal Board. On December 27, the Board remanded the case for a new hearing with an administrative law judge.

On January 8, 2024, a hearing notice was mailed to the parties for a hearing which was scheduled for January 22. The issues on the notice of hearing mailed January 8, include whether the Claimant is able to and available for work and whether the Claimant failed to make an active work search. Both are cited under Iowa Code 96.4(3). The claimant, Jason Data, participated personally. No exhibits were offered or admitted.

On January 23, the administrative law judge issued a decision finding the warning decision was mailed on October 15, 2023, and the Claimant's appeal on October 27, was untimely. The Claimant has appealed the decision to the Employment Appeal Board.

FINDINGS OF FACT:

On October 24, 2023, Iowa Workforce Development (agency) issued a warning decision to the Claimant for the week ending October 21, stating he needed to conduct four reemployment activities per week. The record shows the Claimant applied for three jobs and watched a reemployment video from the agency.

On October 27, 2023, the Claimant filed his appeal to the October 24 decision. The appeal deadline was November 3.

REASONING AND CONCLUSIONS OF LAW:

First, the Employment Appeal Board finds the Claimant's appeal was timely filed. He filed the appeal by the deadline provided in the agency's warning decision. We would also note the issue of whether the appeal was timely is not on the notice of hearing, but since the administrative law judge made the decision on that basis, we have taken jurisdiction.

We now look at whether the Claimant conducted an adequate work search for the week ending October 21. 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.

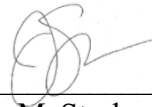
(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

The record shows the Claimant applied for three jobs and engaged in one of the agency's reemployment

activities. The Claimant has demonstrated an active and earnest search for work for the week ending October 21, 2023. Accordingly, the warning was not appropriate.

DECISION:

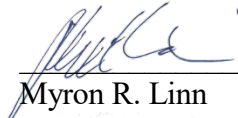
The administrative law judge's decision dated January 23, 2024 is **REVERSED**. The Employment Appeal Board concludes that the Claimant filed a timely appeal and conducted an active and earnest search for work. Accordingly, the warning mailed on October 24, 2023, was not appropriate.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn

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DATED AND MAILED: FEBRUARY 19, 2024