

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALBA Y MARTINEZ
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-08692-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/15/16
Claimant: Appellant (1)

Iowa Code §96.4(3) - Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 2, 2016, (reference 06) unemployment insurance decision that denied benefits based upon the claimant's failure to make an active work search during week July 10 through 16, 2016. The claimant's appeal letter provided in conjunction with Appeals 16A-UI-08013-JC-T, 16A-UI-08014-JC-T, and 16A-UI-08015-JC-T was treated as the claimant's appeal also for the case at hand. The claimant waived formal notice for the hearing. A telephone hearing was held on August 10, 2016. The claimant participated personally and through a CTS Language Link Spanish interpreter. Department exhibit D-1 (the claimant's appeal letter) was received into evidence. The administrative law judge took official notice of the administrative record. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant make an adequate work search for the week ending July 16, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant made a weekly claim for benefits for the week ending July 16, 2016. The claimant reported when filing her weekly continued claim for benefits that she made one contact for her work search for that week. The claimant asked a fellow member at her church who operates a cleaning company if there were any openings. The claimant did not fill out an application. The claimant was unable to provide a phone number or address for the business. The claimant did not make any other work searches for that week.

At the hearing, the claimant stated that she was new to unemployment, unaware that she needed to make a job search, or record her work search contacts. Prior to the August 2, 2016, reference 06, decision, the claimant received a warning for failure to make a job search (reference 02 decision) as well as three additional decisions (reference 03, 04 and 05) finding

the claimant ineligible based on three separate weeks in which she failed to complete an adequate work search.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has not made an active and earnest search for work.

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".

Each week a claimant files a claim for benefits, she must make a personal and diligent effort to find a job. Iowa Code § 96.4(3). When a claimant does not make an earnest and active search for work, she is not eligible to receive benefits. 871 IAC 24.22(3).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

Assessing the credibility of the witness and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the claimant has not sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending July 16, 2016. Even if the claimant's contact with her acquaintance at church was considered a valid work search contact, she is required to make two contacts each week. The claimant is reminded she is also required to record her work search with detail (See page 9 of the claimant handbook for more information). Cognizant that the claimant is new or not familiar with the unemployment process, the claimant still must meet the necessary requirements in order to be eligible for benefits.¹ Accordingly, benefits are denied.

DECISION:

The August 2, 2016, (reference 06), decision is affirmed. The claimant did **NOT** make an active and earnest search for work for the week ending July 16, 2016. Benefits are denied.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/pjs

ⁱ A copy of the claimant handbook (including a work search log) in Spanish can be viewed online at:
<http://www.iowaworkforce.org/ui/handbook.htm>