

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KIMBERLY E EMSHOFF**  
Claimant

**APPEAL NO: 19A-UI-04080-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 07/01/18**

**Claimant: Appellant (1)**

Iowa Code § 96.4 (3) – Able and Available for Work  
IAC R.871-24.22(3) – Failure to make an Active Work Search

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's unemployment insurance decision dated May 10, 2019, (reference 06) which denied unemployment insurance benefits from April 21, 2019 through April 27, 2019, finding that the claimant did not make an adequate search for work although she had earlier been warned to do so, instructing her to expand her search for work. After due notice was provided, a telephone hearing was held on June 12, 2019. Claimant participated. Claimant's Exhibit 1, Ms. Emshoff's initial claim form, and Department Exhibit D-1, the administrative file were admitted into the hearing record.

**ISSUES:**

The first issue is whether the claimant is able and available for work within the meaning of the law.

The second issue is whether the claimant has made an active search for work for the period April 21, 2019 through April 27, 2019.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Kimberly Emshoff most recently opened a claim for unemployment insurance benefits on April 25, 2019. The claimant had been seasonally laid off from work as a tax preparer for H & R Block Company. Ms. Emshoff also worked as a substitute mail carrier. At the time that Ms. Emshoff opened her claim for benefits earlier on July 1, 2018, she was not required to search for work each week. She was considered to be attached to her seasonal and part-time employers. Later the claimant was required to begin a work search in October 2018 and did so.

When she re-opened her claim on April 28, 2019, Ms. Emshoff was told that she was not required to do a work search each week. Later, the claimant again received a notification that a work search was required. The claimant looked at her initial employment claim again and concluded that a work search was not required. Based upon the information in the print out

(See Claimant's Exhibit 1) and the instructions that had been given to her verbally, Ms. Emshoff believed that she was not required to search for work or report her contacts each week and did not do so for April 21, 2019 through April 27, 2019.

The evidence establishes that Ms. Emshoff is able and available for work and actively accepts assignments offered to her by the US Postal Service as a substitute mail carrier and the claimant holds herself available for seasonal work with H & R Block Company as well.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge in this case is first of all whether the claimant is able and available for work. She is. The second question is whether the claimant has failed to make an active search for work during the week in question. She is not.

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(27) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

In the case at hand, the evidence establishes that Ms. Emshoff was able and available for work during the period in question, but the claimant did not make an adequate search for work after earlier been warned to do so for the period between April 21 and April 27, 2019. While Ms. Emshoff initially was not required to make a work search or report her work search each week, she subsequently was notified by Iowa Workforce Development that she needed to contact prospective employers each week and to expand her search for work in order to be eligible to receive unemployment insurance benefits. Ms. Emshoff elected instead to review a portion her initial claim documentation that did not require her to contact prospective employers or to engage in a work search each week.

The administrative law judge concludes that the subsequent warning given to Ms. Emshoff that she must contact prospective employers each week, report her contacts and expand her work search each week she claimed benefits, provided reasonable and adequate notice to the

claimant that she then again must make and report an adequate search for work each that she claimed unemployment insurance benefits. Because the claimant did not report a work search for the period of April 21, 2019 through April 27, 2019, she has not met the work search requirements of the Iowa Employment Security Act and is not eligible to receive unemployment insurance benefits for that period.

**DECISION:**

The representative's unemployment insurance decision dated May 10, 2019, reference 06 is affirmed. Claimant is not eligible to receive unemployment insurance benefits from April 21, 2019 through April 27, 2019 as claimant did not make an adequate search for work after a warning to do so and to expand her search for work.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn