

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHARI A YOUNGBEAR
Claimant

APPEAL 18A-UI-09167-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/17/18
Claimant: Appellant (1R)**

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

STATEMENT OF THE CASE:

Shari A. Youngbear (claimant) filed a timely appeal from the August 29, 2018, reference 06, unemployment insurance decision that warned her to make at least two work-search contacts per week but did not deny benefits for the week ending August 25, 2018. After due notice was issued, a telephone conference hearing was held on September 24, 2018. The claimant participated. No exhibits were offered into the record.

ISSUE:

Did the claimant make an adequate work search for the week ending August 25, 2018, and was the warning appropriate?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her claim for benefits effective June 17, 2018 and her weekly benefit amount is \$182.00. During her base period, the claimant was employed part-time. The claimant started a new part-time job on July 30, 2018 and continued to claim benefits while reporting her wages earned on the advice of an Iowa Workforce Development (IWD) representative at her local office. The representative also told her that she no longer needed to continue searching for work. The claimant claimed benefits for the week ending August 25, 2018 and did not make two work searches that week. The issue of whether the claimant is partially unemployed effective July 29, 2018 has not yet been investigated or adjudicated by the Benefits Bureau.

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".

Iowa Code section 96.19(38) provides:

Definitions.

38. Total and partial unemployment

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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 claimant did not make two job searches for the week ending August 25, 2018. At this time, the agency has not yet determined whether the claimant was partially unemployed and obliged to remain able to and available for work. Accordingly, the warning was appropriate.

DECISION:

The August 29, 2018, reference 06, unemployment insurance decision is affirmed. The claimant did not make an active and earnest search for work for the week ending August 25, 2018. Therefore, the warning was appropriate.

REMAND:

Whether the claimant is partially unemployed effective July 29, 2018 is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn