

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building, 4<sup>TH</sup> Floor  
Des Moines, Iowa 50319  
Website: eab.iowa.gov**

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**STEPHEN P HOLT**

Claimant

: **APPEAL NUMBER:** 23B-UI-09200  
: **ALJ HEARING NUMBER:** 23A-UI-09200

and

:  
: **EMPLOYMENT APPEAL BOARD  
DECISION**

**IOWAWORKS CENTER COUNCIL  
BLUFFS**

:  
:  
:

Employer

**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:** 96.4-3 24.22-3

**DECISION**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

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.

**FINDINGS OF FACT:**

The Claimant filed his claim for unemployment insurance benefits effective July 2, 2023. He filed weekly claims each week. During the week of August 13, his sixth week of unemployment, the Claimant applied to three open positions, one of which was a Heavy Equipment Mechanic Technician with MasterTech. He also attended four reemployment activities through Iowa Workforce Development (IWD).

During the week of September 3, his tenth week of unemployment, the Claimant applied to three jobs, one of which was a duplicate of the position with MasterTech. He also attended two reemployment activities through IWD.

The IWD claimant handbook states that a claimant is required to conduct four work search activities a week, three of which must be job applications. It also states that a claimant cannot apply to the same job within six weeks of each other and have it count as an activity toward eligibility for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.4(3)a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. a. 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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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 24.22 provides, in relevant part:

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.

...

(3) 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.

...

(b) Number of employer contacts. It is difficult to determine criteria in which earnestly and actively may be interpreted.

...

(f) Search for work.

(1) The Iowa law specifies that an individual must earnestly and actively seek work. This is interpreted to mean that a registration for work at a workforce development center or state employment service office in itself does not meet the requirements of the law. Nor is it interpreted to mean that every individual must make a fixed number of employer contacts each week to establish eligibility. The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit payments, a change in claimant characteristics, job prospects in the community, and such other factors as the department deems relevant.


The Iowa Supreme Court has stated if an agency applies their rules or guidelines as a matter of law, then the rules must go through the formal rulemaking under Iowa Code section 17A.3 to become a part of the administrative code. *Ford v. Iowa Dept. of Human Services*, 500 N.W.2d 26, 29 (Iowa 1993), *citing Young Plumbing & Heating Co. v. Iowa Natural Resources Council*, 276 N.W.2d 377, 383 (Iowa 1979). However, if the agency's rules or guidelines are just used to assist in applying the law's policy considerations on a case-by-case basis, then formal rule making is not required. *Id.*

While IWD has adopted specific rules regarding work searches in its handbook that are good guidelines for claimants to follow, they have not put these guidelines through the formal rulemaking process. As a result, the IWD rules need to be considered on a case-by-case basis to see if the Claimant has met the policy considerations underlying the law. We must first look to the Iowa Code and Iowa Administrative Code for the legal requirements for a work search. Iowa law is clear that there is no specified number of work searches required. Additionally, there is nothing in Iowa law that states a claimant can only count applications to the same job if more than six weeks has lapsed.

Rather, we are required to view the work search as a whole to determine if the Claimant has met the policy considerations of the law. The main purposes for the work search requirements are to ensure that the claimant is still connected to the job market and, ultimately, help the claimant to find other employment. When we review the information available about the Claimant's work search, the Claimant was regularly searching for work for which he was qualified and actively participating in reemployment activities. He did have one duplicate job application, but the applications were filed four weeks apart. As that two weeks between duplicate appeals is the Claimant's only work search deficiency, we conclude the Claimant has met the policy considerations of the law and was actively and earnestly seeking work.

**DECISION:**

The administrative law judge's decision dated October 20, 2023 is **REVERSED**. The Employment Appeal Board concludes that the Claimant was actively and earnestly seeking work. Accordingly, benefits are allowed.



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James M. Strohmman



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Ashley R. Koopmans



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Myron R. Linn

SRC/fnv

**DATED AND MAILED: DEC 15 2023**