

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REGINA ACKERMAN
Claimant

APPEAL 18A-UI-06280-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/27/18
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Regina Ackerman (claimant) filed a timely appeal from the June 5, 2018, reference 01, 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 June 2, 2018. After due notice was issued, a telephone conference hearing was scheduled to be held on June 25, 2018. The claimant responded to the hearing notice instructions but no hearing was held as there was sufficient evidence in the appeal letter to resolve the matter without testimony.

ISSUE:

Did the claimant make an adequate work search for the week ending June 2, 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 May 27, 2018. She claimed benefits for the week ending June 2, 2018. She did not perform a work search for that week as she is temporarily laid off and still connected to her employer. The claimant contacted Iowa Workforce Development (IWD) to question why she was asked about work searches and learned she had been misclassified in the system. The person she spoke with updated her group code to reflect that she does not need to perform a work search if she is temporarily laid off for no more than four consecutive weeks.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not required to conduct a work search for the week ending June 2, 2018.

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)(c) provides:

Definitions.

38. Total and partial unemployment

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.

The claimant is temporarily laid off and was not required to conduct a work search for the week ending June 2, 2018. If the claimant is temporarily laid off for more than four consecutive weeks, she may then be required to conduct an active work search. Accordingly, the warning issued on June 5, 2018, was not appropriate.

DECISION:

The June 5, 2018, reference 01, unemployment insurance decision is reversed. The claimant was not required to make an active and earnest search for work for the week ending June 2, 2018. Therefore, the warning was not appropriate.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn