

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRENT L YOUNGGREN
Claimant

APPEAL NO. 21A-UI-16047-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/30/21
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available, Work Search Log Warning

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 13, 2021, reference 01, decision that warned him he was required to keep a record of the job contacts he made each claim week. The decision reminded the claimant that he was required to keep a record of job contacts that included the date of contact, employer name, address, telephone number, and the name of the person the claimant contacted. The decision reminded the claimant that he was required to provide a copy of the record upon request and warned he could be disqualified for benefits if he failed to do so. After due notice was issued, a hearing was held on September 9, 2021. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO DBRO.

ISSUE:

Whether the claimant failed to keep the required work record and/or failed, without good cause, to provide the record upon request and, therefore, did not meet the work search requirement.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective May 30, 2021. The claimant has made weekly claimant for each benefit week since the original claim date. On July 12, 2021, the claimant participated in a telephonic re-employment services and eligibility assessment (RESEA) telephone appointment with an Iowa Workforce Development representative. The claimant received appropriate notice of the meeting. The meeting took place at 12:15 p.m. At the time of the RESEA meeting, the claimant was driving to a medical appointment in Omaha, which was about 1.5 hours from the claimant's home in Essex, Iowa. The claimant had with him the work search log he had kept to document his employer contacts. The claimant had been using a form provided by Iowa Workforce Development to document his work search activities. During the RESEA appointment, the IWD representative advised that she would need the claimant to submit his work search log by 4:30 p.m. that same day. The claimant advised that was not possible, given that he was on his way to the medical appointment and was away from his home. The claimant offered to read the work search record to the IWD representative, who advised that was not acceptable and that a warning would be

issued if the log was not provided by 4:30 p.m. that day. The claimant did not provide the log by 4:30 p.m. Based on the IWD representative's statement that a warning would issue if the log was not provided by 4:30 p.m. that same day, the claimant did not take steps to submit the log beyond that deadline. When the claimant received the work search log warning, the warning erroneously stated that the claimant had been unaware that he had to keep a log and provide it upon request. The erroneous statement prompted the claimant's appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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. 871-24.22(2) provides:

Benefits 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. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Administrative Code rule 871-24.22(3) provided, in part, as follows:

Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is 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. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual

is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

The 2019 Unemployment Insurance Claimant Handbook, includes the following at page 16:

Continued Eligibility

Work Search Requirements

You are required to make a minimum of two job contacts each week, unless this requirement is waived. The work search requirement may be waived if you are temporarily unemployed and expect to be recalled by your former employer within a reasonable period of time or if you are in school and approved for Department Approved Training (DAT). Your work search requirement is determined each time a claim is filed.

In order to meet the work search requirements, you must make two job contacts between Sunday and Saturday of the week you are claiming benefits. Contacts may be made in person, online, by mail, email or faxing résumés or applications. Telephone calls are not acceptable. The work search must be a reasonable and honest effort to find suitable work. Failure to perform an honest effort work search may result in the denial of benefits. Participation in reemployment services activities may qualify as a work search.

You must be willing to accept a reasonable wage for the job for which you are applying. You may not apply for the same position with the same employer more than once every six weeks. You must keep a Work Search Log of all work search contacts for a period of one year after you stop claiming benefits and be ready to provide a copy if requested by IWD. Failure to comply may result in denial of benefits.

The work search record needs to include:

- Date of the contact
- Company name, address and phone number
- Contact name
- Method of contact i.e. in person, online, email, mail
- Results of contact

The claimant circumstances at the time of the RESEA meeting on July 12, 2021 provided good cause for not complying with the RESEA representative's directive to submit his work search log for review by 4:30 p.m. on July 12, 2021. The claimant had been keeping the required record. The claimant explained to the RESEA representative why he was unable to immediately comply with the directive. The claimant was at that time away from home, enroute to a medical appointment a significant distance from him home, and unable to comply with the directive. The work search log warning is hereby reversed.

DECISION:

The July 13, 2021, reference 01, decision is reversed. The claimant had good cause for not providing the work log by the 4:30 p.m. July 12, 2021 deadline set by the RESEA representative. The warning regarding the work search log is reversed.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

September 15, 2021
Decision Dated and Mailed

jet/ol