

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD D RADDATZ
Claimant

APPEAL NO. 16A-UI-02392-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/03/16
Claimant: Appellant (3R)

Iowa Code Section 96.4(3) – Work Search

STATEMENT OF THE CASE:

Richard Raddatz filed a timely appeal from the February 16, 2016, reference 01, decision that warned him that he was required to make at least two job contacts each week he claimed benefits and that warned him that benefits could be denied for any future week in which he failed to make the required job contacts, based on a conclusion that Mr. Raddatz had made zero job contacts during the benefit week that ended February 13, 2016. After due notice was issued, a hearing was held on March 21, 2016. Mr. Raddatz participated in the hearing. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, the March 1, 2016, reference 02, decision and the March 2, 2016, reference 03, decision.

ISSUE:

Whether the claimant engaged in an active and earnest search for work during the two-week period of February 7-20, 2016.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Richard Raddatz established an original claim for benefits that was effective January 3, 2016 and received benefits that included \$431.00 for the week that ended February 13, 2016. On February 7, 2016 Mr. Raddatz went on vacation. Mr. Raddatz returned from vacation on February 21, 2016. While he was on vacation, he did not search for work. Before Mr. Raddatz left on vacation, he spoke to a Workforce Development representative in an attempt to forego receiving benefits for the time when he was on vacation and an attempt to avoid having a break in his claim. When Mr. Raddatz made his weekly claims for the weeks that ended February 13 and 20, 2016, he reported zero job contacts.

On March 1, 2016, a Workforce Development representative entered a reference 02 decision that allowed benefits to Mr. Raddatz, effective February 7, 2016, based on an erroneous Agency conclusion that Mr. Raddatz was available for work. On March 2, 2016, a Workforce Development representative entered a reference 03 decision that allowed benefits effective

February 14, 2016, based on an erroneous Agency conclusion that Mr. Raddatz was available for work.

REASONING AND CONCLUSIONS OF LAW:

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

Despite his good-faith effort to alert Workforce Development that he would be on vacation February 7-21, 2016 so that he would not be paid benefits for those weeks, Mr. Raddatz received benefits for the weeks that ended February 13 and 20, 2016. He received the benefits because he made weekly claims for each of those weeks. Because he made the weekly claims, he was subject to the work search requirement. Had Mr. Raddatz not made weekly claims for the two weeks when he was on vacation, no benefits would have been paid. Because Mr. Raddatz received benefits for those two weeks and because he did not look for work during those two weeks, the administrative law judge concludes that the work search warning must remain in place.

This matter will be remanded to the Benefits Bureau for their review of the March 1, 2016, reference 02, decision and March 2, 2016, reference 03, decision and for determination by the Benefits Bureau of whether those decisions should be amended. Because the decisions were in favor of the claimant, the administrative law judge concludes he lacks jurisdiction to disturb the decisions, even though the decisions appear to be erroneous.

DECISION:

The February 16, 2016, reference 01, decision is modified as follows. The claimant did not make an active search for work during the weeks that ended February 13 and 20, 2016. The work search warning remains in effect. Benefits may be denied for any future week in which claimant fails to make the required job contacts.

This matter is remanded to the Benefits Bureau for their review of the March 1, 2016, reference 02, decision and March 2, 2016, reference 03, decision and for determination by the Benefits Bureau of whether those decisions should be amended.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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