

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVEN C AMES
Claimant

APPEAL NO. 23A-UI-07708-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/08/23
Claimant: Appellant (5)**

Iowa Code Section 96.4(3) – Able & Available, No Weekly Claim

STATEMENT OF THE CASE:

On August 4, 2023, Steven Ames (claimant) filed a timely appeal from the July 25, 2023 (reference 09) decision that denied benefits for the week that ended May 20, 2023, based on the deputy's conclusion the claimant did not meet the reemployment activities requirement and had earlier been warned about the requirement. After due notice was issued, a hearing was held on August 23, 2023. The claimant participated. There were nine appeal numbers set for a consolidated hearing: 23A-UI-07700-JT-T, 23A-UI-07701-JT-T, 23A-UI-07702-JT-T, 23A-UI-07703-JT-T, 23A-UI-07704-JT-T, 23A-UI-07705-JT-T, 23A-UI-07706-JT-T, 23A-UI-07707-JT-T, and 23A-UI-07708-JT-T. Exhibits A through D were received into evidence at the time of the hearing. The administrative law judge took official notice of the following agency administrative records: DBRO, KCCO, KFFV, NMRO and the reference 01 through 09 decisions. The administrative law judge left the hearing record open through August 30, 2023 for the limited purpose of allowing the claimant to submit documentation pertaining to his work search. On August 25, 2023, the Appeals Bureau received the claimant's mailed packet of supporting documents, which were received into evidence as Exhibit E.

ISSUES:

Whether the claimant failed to meet the work search/reemployment activities requirements during the week that ended May 20, 2023 and had earlier been warned about the requirements. Whether the claimant made a weekly claim for the week that ended May 20, 2023.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Steven Ames (claimant) established an original claim for benefits that was effective January 8, 2023. Mr. Ames is a licensed and practicing attorney. When Mr. Ames completed his initial online application for unemployment insurance benefits, the confirmation screen included the following instructions:

NOTICE: AS OF JANUARY 9TH, 2022, REEMPLOYMENT ACTIVITIES REQUIREMENTS CHANGED FROM TWO (2) TO FOUR (4). THREE (3) OF THOSE

REEMPLOYMENT ACTIVITIES ARE REQUIRED TO BE JOB APPLICATIONS. YOU ARE REQUIRED TO CREATE AN IOWAWORKS PROFILE AND CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU WILL UTILIZE IOWAWORKS TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES. YOU ARE REQUIRED TO CERTIFY YOUR REEMPLOYMENT ACTIVITIES PRIOR TO FILING YOUR WEEKLY CLAIM.

On February 21, 2023, Iowa Workforce Development Benefits Bureau entered the reference 01 work search warning decision that reminded the claimant he was required to engage in four reemployment activities, including three job applications, each benefit week and that warned the claimant could be disqualified for benefits for future weeks in which the claimant did not meet the work search/reemployment activities requirements. The reference 01 decision cited the claimant's weekly claim for the week ending February 18, 2023 as the basis for the work search warning decision. The reference 01 work search warning decision remains in effect. See Appeal Number 23A-UI-07700-JT-T.

After the work search warning decision was issued, the claimant entered work search information in the lowWORKS.gov database only for the week that ended March 4, 2023. The claimant then decided that entering work search information in the lowaWORKS.gov database was too tedious and elected thereafter not to comply with the reporting requirement. The claimant also did not comply with the requirement that he certify the accuracy of his work search information via the lowaWORKS.gov system. The claimant's failure to comply with the reporting and certification requirements impacted each of the weekly claims the claimant made through the weekly claim reporting system for the four weeks ending April 1, April 8, April 15, and April 22, 2023. Because the claimant did not report or certify work search activities through the lowaWORKS.gov system, the weekly claim system recorded zeros for the claimant's employer contacts and reemployment activities for each of the four weeks. The claimant had indeed applied for four jobs during each of these four weeks in question. Iowa Workforce Development paid benefits for each of these four weeks.

The claimant discontinued his unemployment insurance claim after he made the weekly claim for the week ending April 22, 2023. The claimant had commenced new employment. The claimant did not make weekly claims for the weeks ending April 29, May 6, May 13, or May 20, 2023 and did not desire unemployment insurance benefits for those weeks.

On April 25, 2023, Iowa Workforce Development mailed notice to the claimant regarding a May 1, 2023 fact-finding interview set to address the claimant's failure to comply with the work search/reemployment activities reporting requirement and whether the claimant had engaged in an active and earnest search for new employment during the week that ended April 1, 2023. On May 5, 2023, the claimant emailed to IWD a record of his work search activities for the week ending February 25, 2023 through the week ending April 22, 2023. For the week ending April 22, 2023, the claimant omitted the date on which he applied for jobs.

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 Admin. Code r. 871-24.23(27) and (28) 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.

(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.

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

(g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

In the absence of a weekly claim for the week that ended May 20, 2023, the claimant cannot be considered for benefits for that week and is not eligible for benefits for that week.

DECISION:

The July 25, 2023 (reference 09) decision is MODIFIED as follows. In the absence of a weekly claim for the week that ended May 20, 2023, the claimant cannot be considered for benefits for that week and is not eligible for benefits for that week.



James E. Timberland
Administrative Law Judge

September 1, 2023
Decision Dated and Mailed

JET/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.