

**APPEAL TRIBUNAL DECISION**

**Docket number:** 21 0173 **Hearing date:** May 18, 2021

**CLAIMANT:**

DALE CRANDALL

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Dale Crandall None

**STATEMENT OF THE CASE**

On January 22, 2021, the claimant timely appealed a denial of extended benefits issued under AS 23.20.406. The issue before the Tribunal is whether the claimant was seeking work as required.

**FINDINGS OF FACT**

The claimant’s nephew passed away during the week of Thanksgiving. The entire family was emotionally distraught over the loss of the nephew. The family was reminded again of the loos by his absence at the Christmas get together. With all the issues during the week after Christmas, the claimant did not seek work during that week.

The claimant filed a claim certification for that week and reported that he did not search for work. He was not aware that he would be denied extended benefits until he had returned to work in four consecutive weeks and earned four times his weekly benefit amount. He believed that he would only be denied that one week.

**STATUTORY PROVISIONS**

**AS 23.20.406**. **Extended Benefits.**

(a) Except when the result would be inconsistent with other provisions of this chapter, the provisions of this chapter, which apply to claims for or the payment of regular benefits apply to claims for and the payment of extended benefits.

(b) An individual is eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period if the department finds that with respect to that week the individual

 (1) is an "exhaustee" as defined in AS 23.20.409 ; and

 (2) has otherwise satisfied the requirements of this chapter for the receipt of regular benefits.

(c) Notwithstanding (a) and (b) of this section, an individual is ineligible for payment of extended benefits for any week of unemployment in the individual's eligibility period if the department finds that during the period the individual failed to

1. accept an offer of suitable work as defined under (k) of this section or failed to apply for suitable work to which the individual was referred by the department; or

(2) failed to actively seek work as prescribed under (f) of this section, except that the eligibility of the individual will be determined under AS 23.20.378 without regard to the disqualification provisions otherwise applicable under (d) of this section if the individual is not actively engaged in seeking work because the individual is

(A) summoned for jury duty before a court of the United States or any state; or

(B) hospitalized for treatment of an emergency or life-threatening condition; or

(C) attending an approved vocational training course under AS 23.20.382.

(d) An individual who has been found ineligible for extended benefits under (c) of this section shall be denied benefits beginning with the first day of the week following the week in which the failure occurred and until the individual has been employed in each of four subsequent weeks and has earned remuneration equal to not less than four times the extended weekly benefit amount, excluding the allowance for dependents.

 …

(f) For the purposes of (c)(2) of this section, an individual is considered to be actively seeking work during a week if the individual furnishes evidence in writing to the department that the individual has engaged in a systematic and sustained effort to obtain work during that week.

**CONCLUSION**

In Sullivan, Comm. Dec. 960974, June 25, 1996, the Commissioner of Labor stated, in part:

 *Availability for work is a week to week proposition under the unemployment insurance program. A claimant is expected to be able and willing to accept any suitable work during each week for which the claimant is filing. A failure to search for work for any week while filing for extended benefits is disqualifying under the statute and there are no exceptions based on the reasons the claimant has advanced for her failure to make such a work search.*

In Scott, Comm. Dec. 87H-EB-162, June 18, 1987, the Commissioner held that:

 *The Tribunal does not have any jurisdiction to hold contrary to the clear wordage of the law.*

**DECISION**

The notice of determination issued in this matter on January 8, 2021, is **AFFIRMED**. The claimant is denied unemployment benefits under AS 23.20.406 beginning with the weeks ending January 2, 2021 and continuing until he has been employed in four weeks and earned four times his weekly benefit amount.

### APPEAL RIGHTS

This decision is final unless an appeal is filed to the Commissioner of Labor within **30 days** of the date of the decision. The appeal period may be extended only if the appeal is delayed by circumstances beyond the party's control. A statement of appeal rights and procedures is enclosed.

Dated and mailed on May 19, 2021.

 Tom Mize

 Hearing Officer