

IN THE UTAH COURT OF APPEALS

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James C. Madson,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Petitioner,	)		
	)	Case No. 20100619-CA	
v.	)		
	)		
Department of Workforce	)	F I L E D	
Services,	)	(October 15, 2010)	
	)		
Respondent.	)	<table border="1"><tr><td>2010 UT App 286</td></tr></table>	2010 UT App 286
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Original Proceeding in this Court

Attorneys: James C. Madson, Layton, Petitioner Pro Se  
            Suzan Pixton, Salt Lake City, for Respondent

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Before Judges Davis, McHugh, and Voros.

PER CURIAM:

James C. Madson appeals the Workforce Appeals Board's (the Board) July 21, 2010 decision. We affirm.

Madson asserts that the Board erred by denying him benefits after it determined that he was not able and available for full-time work. Utah Code section 35A-4-403(1)(c) provides that an unemployed individual is eligible to receive benefits for any week if the division finds that the "individual is able to work and is available for work during each and every week for which the individual made a claim for benefits." Utah Code Ann. § 35A-4-403(1)(c) (Supp. 2009). The Department of Workforce Services' rules pertaining to this section require that in addition to being able and available to work, the applicant must also have undertaken a good faith effort to secure employment. See Utah Admin. Code R994-403-111c.

This court will reverse an administrative agency's findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). We will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and rationality." Nelson v. Department of Emp't Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990).

Madson's seasonal work deferral expired on April 17, 2010. In order to receive unemployment benefits, Madson was required to conduct an active, good faith job search. See Utah Admin. Code R994-403-111c. The record contains substantial evidence that Madson did not undertake an active job search because he desired to return to work for Staker-Parsons. Because there is substantial evidence that Madson did not undertake an active, good-faith job search, this court is required to affirm the Board's determination that Madson did not conduct an active job search. See Drake, 939 P.2d at 181.

Madson next asserts that the Board erred by denying his request for a new hearing in order to present testimony and evidence from his physician and Staker-Parsons. Absent a showing of unusual or extraordinary circumstances, the Board will not consider new evidence on appeal if the evidence was reasonably available and accessible at the time of the hearing before the ALJ. See Utah Admin. Code R994-508-305(2). The Board determined that Madson had the ability to present testimony from his physician and Staker-Parsons at the time of his hearing before the ALJ. Madson failed to demonstrate why he was prevented from providing the desired evidence at the time of the hearing before the ALJ. Thus, because Madson did not demonstrate unusual or extraordinary circumstances warranting a new hearing, the Board did not err by denying Madson's request for a new hearing.

Affirmed.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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J. Frederic Voros Jr., Judge