

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODI D THOMPSON
Claimant

APPEAL NO. 08A-UI-11052-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/03/08 R: 02
Claimant: Appellant (2)**

Section 96.4(3) – Work Search Requirement

STATEMENT OF THE CASE:

Jodi Thompson filed a timely appeal from the November 18, 2008, reference 03, decision that warned her that she was required to make a minimum of two employer contacts each week she claims benefits. After due notice was issued, a hearing was held on December 10, 2008. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of the claimant's weekly reports to the Agency via the automated telephonic claims reporting system.

ISSUE:

Whether Ms. Thompson made an active and earnest search for new employment during the week that ended November 15, 2008.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jodi Thompson was discharged from her employment on Tuesday, November 11, 2008. Ms. Thompson had been with the employer for 6.5 years. In response to the discharge, Ms. Thompson established an "additional claim" for benefits that was deemed effective November 9, 2008. Ms. Thompson has since used the automated telephonic claims reporting system to claim benefits and report her work activities. For the week ending November 15, Ms. Thompson reported \$200.00 in wages and received \$127.00 in unemployment insurance benefits. For the same week, Ms. Thompson reported one employer job contact. Ms. Thompson has performed telemarketing work for the last 13 years and has generally sought such positions by locating openings on the Internet and submitting résumés. For the week in question, Ms. Thompson had submitted a résumé to one prospective employer. Ms. Thompson had telephoned another and left a message to follow up on a résumé she had submitted to that prospective employer in March 2008. When Ms. Thompson made her weekly claim report, she had in mind only the résumé she had sent, not the telephone call she had made to follow up on the previously submitted résumé.

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".

871 IAC 24.23(28) provides:

(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.

The weight of the evidence indicates that Ms. Thompson did in fact engage in an active and earnest search for new employment during the week that ended November 15, 2008. Ms. Thompson had worked two days that week before being discharged from the employment. During the three remaining normal working days, Ms. Thompson submitted a résumé. She also followed up with another employer by telephone with regard to a previously submitted résumé.

DECISION:

The Agency representative's November 18, 2008, reference 03, work search warning/decision is reversed. The claimant made an active and earnest search for employment during the week that ended November 15, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css