

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

JEFF L RUDOLPH  
801 – 9<sup>TH</sup> ST  
SCRANTON IA 51462

IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT

Appeal Number: 05A-UI-00832-RT  
OC: 01-02-05 R: 01  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Required Findings (Actively Seeking Work)

STATEMENT OF THE CASE:

The claimant, Jeff L. Rudolph, filed a timely appeal from an unemployment insurance decision dated January 19, 2005, reference 01, warning the claimant that he is required to make two in-person job contacts for each week that he seeks unemployment insurance benefits and failed to do so for benefit week ending January 15, 2005. After due notice was issued, a telephone hearing was held on February 9, 2005, with the claimant participating. There was no employer or respondent noticed. The administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was warned by decision dated January 19, 2005, reference 01, concerning his obligation to make a minimum of two in-person job contacts each week that he seeks unemployment insurance benefits because he had indicated on his claim for unemployment insurance benefits for benefit week ending January 15, 2005 that he had made fewer than two in-person job contacts that week. The claimant actually made two job contacts; one was in person and the other was by application faxed by his local Iowa Workforce Development office. The claimant had permission from Iowa Workforce Development to apply for jobs by application or résumé. He learned of a potential position at Elm Locating from his local Workforce Development office. The claimant completed an application and his local Iowa Workforce Development office faxed it to the employer. The job with Elm Locating is such that an application or résumé is suitable for making a contact.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant should be warned for failing to make two in-person job contacts for the week ending January 15, 2005. The claimant should not be warned.

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".

The administrative law judge concludes that the claimant has the burden of proof to show that he is earnestly and actively seeking work under Iowa Code Section 96.4-3 or is otherwise excused. New Homestead v. Iowa Department of Job Service, 322 N.W.2d 269 (Iowa 1982). The administrative law judge concludes that the claimant has met his burden of proof to demonstrate by a preponderance of the evidence that he is and was earnestly and actively seeking work. For benefit week ending January 15, 2005, when the claimant reported his weekly claim by telephone, he indicated that he had only made one in-person job contact. However, the claimant had actually made two contacts with employers, one in-person and one by application. He had obtained permission from Iowa Workforce Development to apply for jobs using applications or resumes. He learned of a vacancy or position available with the employer, Elm Locating, from his local Iowa Workforce Development office. He completed an application and the local office faxed the application to the employer. The position is one that lends itself to job application or résumé. 871 IAC 24.22(3) provides that an individual shall be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The rule further provides that the circumstances in each case are considered in determining whether an earnest and active search for work has been made. The rule continues that making application with employers as may reasonably be

expected to have openings suitable to the claimant constitutes a reasonable means of securing work under the facts and circumstances of the claimant's particular situation. The administrative law judge concludes that under the facts of this particular situation, the claimant's application for work with Elm Locating was a reasonable means of securing work and that in effect he made two suitable and appropriate job contacts. The administrative law judge notes that Iowa Workforce Development approved the claimant applying for jobs using an application or résumé without an in-person contact. The administrative law judge further notes that Iowa Workforce Development faxed the application to the employer in this case. The administrative law judge finally notes that the position applied for by the claimant is one that is conducive to an application or résumé. Accordingly, the administrative law judge concludes that the claimant made an active and earnest search for work for benefit week ending January 15, 2005, and, as a consequence, he should not be warned for a failure to do so. Therefore, the administrative law judge concludes that the warning the claimant received was not deserved and should be expunged from the record.

DECISION:

The representative's decision dated January 19, 2005, reference 01, is reversed. The claimant, Jeff L. Rudolph, made an active and earnest search for work for benefit week ending January 15, 2005 and, as a consequence, the warning received by the claimant should be expunged from his record. The claimant remains entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

sc/pjs