

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEO G FLORES

Claimant

APPEAL NO. 09A-UI-11672-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAGEN CONSTRUCTION OF MINNESOTA

Employer

OC: 07/19/09

Claimant: Appellant (1)

Iowa Code § 96.4(3) - Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant, Leo Flores, filed an appeal from a decision dated August 5, 2009, reference 01. The decision notified claimant Leo Flores, he was to make two work searches per week to maintain eligibility for unemployment benefits as he was no longer temporarily unemployed. After due notice was issued a hearing was held by telephone conference call on August 31, 2009. The claimant participated on his own behalf. The employer participated by Human Resources Assistant Chelsey Zimmer.

ISSUE:

The issue is whether the claimant made an earnest and active search for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending July 19, 2009. The claimant was categorized as a lay off for lack of work. The employer responded to the notice of claim to state he was on permanent lay off. Although he is on the list for potential recall there is no guarantee of continued work. The recall would be based on the type of work the employer had and whether or not Mr. Flores had skills which would meet those needs. Also taken into account is his seniority, the evaluation given to him at the time of lay off and other factors.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 claimant was laid off but without any assurance he would be recalled to work. Although he is on a recall list, whether or not he would be offered a job on a new work site would depend on other factors besides merely being on the list. As there is no guarantee of continued work he is considered permanently laid off and must make job contacts to remain eligible for benefits.

DECISION:

The representative's decision of August 5, 2009, reference 01, is affirmed. Leo Flores is permanently laid off and must make two work contacts per week to maintain his eligibility for benefits.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs