

**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**

**OWEN R BROOKE
704 GEORGIA AVE SW APT 31
ORANGE CITY IA 51041-1554**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-02438-RT
OC: 01/08/06 R: 01
Claimant: Appellant (1)**

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

The claimant, Owen R. Brooke, filed a timely appeal from an unemployment insurance decision dated February 14, 2006, reference 05, warning him that he is required to make two in-person job contacts for each week that he seeks unemployment insurance benefits and he failed to do so for benefit week ending February 11, 2006. After due notice was issued for a telephone hearing on March 16, 2006 at 2:00 p.m., the claimant did not call in a telephone number, either before the hearing or ten minutes after the hearing, where any witnesses could be reached for the hearing, as instructed in the notice of appeal. There was no employer or respondent noticed. Consequently, no hearing was held. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having examined the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on February 14, 2006, reference 05, warning the claimant that he was to make a minimum of two in-person job contacts each week and that he failed to do so for benefit week ending February 11, 2006.

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 benefit week ending February 11, 2006. The claimant should 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 failed to meet his burden of proof to demonstrate by a preponderance of the evidence either that he is earnestly and actively seeking work or that he is excused from such requirements. The claimant did not participate in the hearing and provide any evidence that he is either temporarily unemployed or partially unemployed as defined by Iowa Code section 96.19(38)(b) and (c) so as to excuse him from the provisions that he be earnestly and actively seeking work. There is also no evidence that the claimant has been approved for Department (Director) Approved Training so as to excuse him from that requirement. There is also no evidence that the claimant was earnestly and actively seeking work by making two in-person job contacts each week for benefit week ending February 11, 2006. There was no fact-finding. In his appeal the claimant states that it is hard for him to get from place to place because he has no license nor a car. However, the administrative law judge notes that the claimant lives in Orange City, Iowa, which is a relatively small city. The claimant should be able to walk to various work sites. The claimant should also be able to either use some kind of taxi service or get rides from neighbors or others. The claimant could also seek permission from Iowa Workforce Development to seek jobs through resumes which would just require that he mail them but no such permission has been obtained from Iowa Workforce Development thus far. It appears to the administrative law judge that the claimant did fail to make two in-person job contacts for benefit week ending February 11, 2006. Accordingly, the administrative law judge concludes that the claimant should be warned for failing to make two in-person job contacts for benefit week ending February 11, 2006. The warning that the claimant received was deserved and will remain on his record.

DECISION:

The representative's decision of February 14, 2006, reference 05, is affirmed. The warning received by the claimant, Owen R. Brooke, for failing to make two in-person job contacts each week for benefit week ending February 11, 2006, is justified and shall remain on the claimant's record. Nevertheless, the claimant remains entitled to receive unemployment insurance benefits, provided he remains otherwise eligible and conducts an earnest and active search for work.

cs/tjc