

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN T ARMSTRONG**  
Claimant

**APPEAL NO. 08A-UI-00225-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RISING STAR INC**  
**RISING STAR WHOLESALE**  
Employer

**OC: 12-09-07 R: 02**  
**Claimant: Appellant (1-R)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 27, 2007, reference 02, decision that notified the claimant he was no longer considered temporarily unemployed and would have to seek work. After due notice was issued, a hearing was held on January 24, 2008. The claimant did participate. The employer did participate through Bob Myers, President, and Doug Hart, Warehouse Manager.

**ISSUE:**

Is the claimant temporarily employed within the meaning of the law and, thus, not required to make in person job contacts?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a truck driver/warehouse worker, full-time, beginning April 2, 2007, through December 7, 2007, when he laid off.

The claimant alleges that he was laid off due to lack of work on December 1, 2007. The claimant was called by Mr. Myers and offered another to return to work at another position. The claimant alleges that he had now been permanently separated from his employment. No fact-finding investigation has been made on the claimant's alleged job offer or permanent separation from work.

**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".

The claimant was laid off by Rising Star Inc. An individual who is unemployed due to a temporary layoff is not required to conduct a work search. Iowa Code section 96.4(3). An individual may be considered temporarily unemployed for no more than four weeks. Iowa Code section 96.19(38)c. The claimant was laid off on December 7, 2007, and his four weeks have expired. The claimant must make at least two in-person job contact for each week he claims benefits.

**DECISION:**

The December 27, 2007, reference 02, decision is affirmed. The decision advising claimant that he is no longer considered temporarily laid off and that he must conduct at least two in-person work searches during each week benefits are claimed was appropriate.

**REMAND:**

The separation issue, as well as the possible job refusal delineated in the findings of fact, is remanded for an initial review and determination.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/kjw