

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JERALD L MILLER**  
Claimant

**APPEAL NO. 07A-UI-11054-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF WEST DES MOINES**  
Employer

**OC: 11/04/07 R: 02**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) - Work Search

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 21, 2007, reference 01, decision. The decision advised claimant that he was no longer considered temporarily unemployed and must begin to search for work by making no fewer than two in-person job contacts per week. After due notice was issued, a hearing was held on December 13, 2007. The claimant participated. Employer participated by Bill Maffucci. Claimant's Exhibit A was received.

**ISSUE:**

The issue is whether claimant is required to search for work effective December 2, 2007.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of November 4, 2007. The City of West Des Moines laid claimant off from his seasonal job sometime during the week ending November 3, 2007. It provided an undated letter from claimant's supervisor Bruce that he was "separated" and would be "rehired" in early March 2008. The letter also asked that claimant drop off his keys to Bruce. Claimant's attendance at the Iowa Turf Conference in January 2008 for three days will be unpaid. Claimant's group code status has been changed from "3" to "2".

**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".

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

871 IAC 24.22(2)c provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

c. Intermittent employment. An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

871 IAC 24.23(27) provides:

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

871 IAC 24.2(1)c(2) and (3) provide that group "1" claimants are those who no longer meet the definition of group "3" claimants if they are temporarily unemployed for a period "not to exceed four consecutive weeks" because of a lack of work.

Because of being laid off from work for more than four weeks, claimant is obligated to make at least two in-person work searches during each week benefits are claimed and may not restrict himself to temporary or intermittent work while waiting to be recalled to work.

**DECISION:**

The November 21, 2007, reference 01, decision is affirmed. The decision advising claimant that he is no longer considered temporarily laid off from work and that he must conduct at least two in-person work searches during each week benefits are claimed was appropriate.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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