

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN WEBBER
Claimant

APPEAL NO: 15A-UI-01835-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE WEITZ CONSTRUCTION COMPANY
Employer

OC: 01/25/15
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work
871 IAC 24.22(3) – Adequate Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 9, 2015, reference 01, decision. The decision stated the claimant may be disqualified for future weeks in which benefits are claimed and fewer than two in-person job contacts are made. After due notice was issued, a hearing was held before Administrative Law Judge Julie Elder on March 11, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of a name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

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 January 26, 2014. During that claim year he was classified as a group code six for purposes of performing work searches. Group code six requires an individual to make two work searches per week.

The claimant's claim expired and he filed a new claim with an effective date of January 25, 2015. At that time he was correctly coded as a group code five which recognizes he is a union member and as such he is required to comply with the union's work search rules. The claimant's contract requires that he contact his business manager one time per week which the claimant has been doing since the effective date of his claim.

ISSUE:

Whether the claimant failed to make an active and earnest search for work?

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 is a union member and as such is categorized as a group code five. Under that category, the claimant is obligated to comply with the rules of his union which only requires that the claimant contact his business manager once per week during each week benefits are claimed. Consequently, the claimant must contact his business manager once per week and is not required to make two work searches per week.

DECISION:

The February 9, 2015, reference 01, decision is reversed. The decision warning the claimant to conduct at least two in-person work searches during each week benefits are claimed is incorrect as the claimant is only required to contact his business manager once per week as a union member.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs