

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT E DOWNING
Claimant

APPEAL NO. 11A-UI-11977-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/10/11
Claimant: Appellant (3-R)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Robert Downing filed a timely appeal from the August 23, 2011, reference 01, decision that concluded he had failed to meet the work search requirement for the week ending August 20, 2011. After due notice was issued, a hearing was held on October 7, 2011. Mr. Downing participated.

ISSUE:

Whether the claimant made an active and earnest search for new employment during the week that ended August 20, 2011.

Whether the claimant was able and available for work during the week that ended August 20, 2011.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Robert Downing received unemployment insurance benefits for the week that ended August 20, 2011. For that week, Mr. Downing made one telephonic job contact. Mr. Downing had a second telephonic job contact set for Friday of the week, but that prospective employer cancelled. Mr. Downing made no other work search effort for that week. Mr. Downing is a group “2” claimant, which means he is required to make in-person job contacts.

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 evidence indicates that Mr. Downing did not make an active and earnest search for new employment during the week that ended August 20, 2011 and, therefore, did not meet the work availability requirement set forth in Iowa Code section 96.4(3). Mr. Downing is not eligible for benefits for that week. This matter will be remanded to the Claims Division for entry of an overpayment decision for the benefits disbursed to Mr. Downing for the week that ended August 20, 2011.

DECISION:

The Agency representative's August 23, 2011, reference 01, decision is modified as follows. The claimant did not make an active and earnest search for new employment during the week that ended August 20, 2011 and did not meet the work availability requirement for that week. The claimant was not eligible for benefits for that week. This matter is remanded to the Claims Division for entry of an overpayment decision for the benefits disbursed to the claimant for the week that ended August 20, 2011.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs