

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA D WALL
Claimant

APPEAL NO. 10A-UI-17086-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/01/10
Claimant: Appellant (3)**

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Linda D. Wall filed a timely appeal from an unemployment insurance decision dated December 8, 2010, reference 06, that allowed benefits to her for the week ending December 4, 2010, but issued a warning upon a finding that she had failed to conduct an active work search during the week. After due notice was issued, a telephone hearing was held January 22, 2011, with Ms. Wall participating. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Is the claimant eligible for benefits for the week ending December 4, 2010?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Linda D. Wall lives in Panora, Iowa. She was away from her community from November 29, 2010, through December 3, 2010, meeting with family and attending her mother's funeral in Primghar, Iowa. She did not conduct a work search. She received unemployment insurance benefits for that week.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant is eligible to receive unemployment insurance benefits for the week ending December 4, 2010. She is not.

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".

An individual who is away from the individual's local labor market area for the majority of a work week is considered to be unavailable for work and thus ineligible for unemployment insurance benefits for that week. Ms. Wall testified that she left Panora on November 29, 2010, not returning until late evening on December 3, 2010. Under these circumstances, she is not eligible for benefits for that week.

DECISION:

The unemployment insurance decision dated December 8, 2010, reference 06, is modified. The claimant is ineligible to receive unemployment insurance benefits for the week ending December 4, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw