

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-09368-LT
OC: 03-14-04 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the August 25, 2004, reference 01, decision that denied benefits for the week ending August 21, 2004. After due notice was issued, a hearing was scheduled to be held on September 23, 2004. Claimant did respond to the hearing notice instructions but was not available when the hearing was called and did not participate.

FINDINGS OF FACT:

Having reviewed claimant's appeal letter and the administrative file, the administrative law judge finds: The claimant's appeal letter stating that appropriate in-person work searches were made is credible. During the week ending August 21 when she filed a telephone claim, she pushed a button in error resulting in incorrect telephone response data. There is not supporting

documentation in the administrative file indicating that claimant reported fewer than two in-person work searches.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made appropriate in-person work search contacts.

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 has sufficiently demonstrated to the satisfaction of the administrative law judge that appropriate in-person work search contacts were made for the week ending August 21, 2004. Accordingly, benefits are allowed.

DECISION:

The August 25, 2004 reference 01, decision is reversed. The claimant did make appropriate in-person work search contacts for the week ending August 21, 2004. Benefits are allowed, provided the claimant is otherwise eligible. No overpayment shall result from this decision.

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