

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANNON L MCKENZIESCHULER
Claimant

APPEAL NO: 11A-UI-13768-S2T

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/29/11
Claimant: Appellant (1)**

Section 96.4-3 – Adequate Work Search

STATEMENT OF THE CASE:

Shannon McKenzie-Schuler (claimant) appealed a representative's October 4, 2011, decision (reference 02) that concluded she had made fewer than the required two in-person job contacts and that a warning should be issued. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was scheduled to be held on October 27, 2011. The claimant did not receive the notice of hearing until October 28, 2011. The claimant contacted the administrative law judge on October 31, 2011. The record was reopened and a hearing was held on October 31, 2011. The claimant participated personally.

ISSUE:

The issue is whether the claimant is actively and earnestly seeking work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on May 29, 2011. For the week ending September 24, 2011, the claimant failed to make a minimum of two in-person contacts because she was traveling.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not actively and earnestly seeking work for the week ending September 24, 2011.

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 did not make two in-person contacts for the week ending September 24, 2011, because she was traveling. Making two in-person contacts is evidence of earnestly and actively seeking work. The evidence does not support a finding that the claimant was earnestly and actively seeking work for the week ending September 24, 2011, and, therefore, the warning shall remain in full force and effect.

DECISION:

The representative's October 4, 2011 decision (reference 02) is affirmed. The warning shall remain in full force and effect.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw