

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY FRESHLY
Claimant

APPEAL NO. 09A-UI-09882-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/29/09
Claimant: Appellant (2)

Section 96.4-3 – Adequate Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 7, 2009, reference 01, decision. The decision warned that the claimant may be disqualified for future weeks in which benefits are claimed if fewer than two in-person job contacts are made but did not deny benefits for that week. After due notice was issued, a hearing was held by telephone on July 20, 2009. The claimant did participate in the hearing.

ISSUE:

The issue is whether the claimant is able to work and available for work effective July 4, 2009.

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 March 29, 2009. During the week ending July 4, 2009 the claimant conducted two in-person work searches. The claimant had a personal interview for employment and in addition contacted another perspective employer seeking work. During the filing of her claim for the week at issue the claimant inadvertently forgot to list the job interview resulting in incorrect response to the work seeking issue. The claimant's testimony that she was available for work the week of the claim is credible.

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 claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that the claimant was available for work during the week ending July 4, 2009. Accordingly benefits are allowed. Based upon the additional evidence available at the time of hearing the warning was not appropriate.

DECISION:

The July 7, 2009, 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 was not appropriate.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css