

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACQUELINE M SIMS
Claimant

APPEAL NO. 11A-UI-00203-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Jacqueline M. Sims filed a timely appeal from an unemployment insurance decision dated December 28, 2010, reference 03, that issued a warning to her upon a finding that she had not made two job search contacts during the week ending December 25, 2010. Due notice was issued for a telephone hearing to be held February 10, 2011. With the consent of the claimant, it was held instead on January 25, 2011. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Is the claimant eligible for unemployment insurance benefits for the week ending December 25, 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: Jacqueline M. Sims was ill for the majority of the week that ended December 25, 2010. She did not conduct a work search during 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 25, 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 ill and is unable to work for the majority of a given work week is not considered to be available for work and is not eligible to receive unemployment insurance benefits for that week. The claimant's testimony establishes that she was ill during the majority of the week ending with December 25, 2010. Therefore, benefits must be withheld.

DECISION:

The unemployment insurance decision dated December 28, 2010, reference 03, is modified. The work search warning is removed, but benefits are withheld for the week ending December 25, 2010, because the claimant was unavailable for work.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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