

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN T ARMSTRONG
Claimant

APPEAL NO. 08A-UI-00226-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12-09-07 R: 02
Claimant: Appellant (2)**

Iowa Code § 96.4(3) - Adequate Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 2, 2008, reference 03, decision. The decision warned that the claimant may be disqualified for future weeks in which benefits are claimed and 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 on January 2, 2008. The claimant did participate in the hearing.

ISSUE:

The issue is whether the warning should be removed from the claimant's record.

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 December 9, 2007. During the week ending December 29, 2007, the claimant failed to conduct at least two in-person work searches. The claimant's testimony that he was available for work the week of the claim is credible. During the filing of the telephone claim for the week at issue, the claimant had not yet received the decision indicating that he was required to begin making in-person searches, as he was no longer considered temporarily unemployed. Once the claimant found out that he was being required to make two in-person job contacts, he began doing so.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 claimant was available for work the week ending December 29, 2007 but did not realized that he was no longer considered temporarily unemployed, as the decision dated December 27, 2007 notifying him of the change was not received by him before the week ended. The claimant is obligated to make at least two in-person work searches during each week benefits are claimed but he did not know of his obligation until after December 29, 2007, thus, the warning was inappropriate.

DECISION:

The January 2, 2008, reference 03, decision is reversed. The decision warning the claimant to conduct at least two in-person work searches during each week benefits are claimed was inappropriate and is removed from his record.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw