

**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**

**WILLIAM BURKHART
PO BOX 418
DUBUQUE IA 52004-0418**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-05019-BT
OC: 02/19/06 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 are 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 – Active Search for Work

STATEMENT OF THE CASE:

William Burkhart (claimant) appealed an unemployment insurance decision dated May 9, 2006, reference 03, which issued him a warning for not making a minimum of two in-person job contacts during the week ending May 6, 2006. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 25, 2006. The claimant participated in the hearing.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered the evidence in the record, finds that: The claimant established a claim for unemployment insurance benefits effective February 19, 2006. During the week ending May 6, 2006, the claimant did make two job applications by resume. The warning was issued due to those job contacts being made by resume rather than in-person. The claimant's group code should be changed to a "Group 6" for

whom in-person job contacts are waived because those individuals' occupations are of a nature that utilize resumes and are normally unable, due to factors such as occupation, distance, etc., to make in-person contacts for employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is actively and earnestly seeking work. Before a claimant is considered eligible to receive weekly unemployment insurance benefits, he must make an active search for work. Iowa Code section 96.4-3. The administrative rule states an individual shall be ineligible for benefits for any period for which the department finds the individual failed to make an earnest and active search for work. An individual must make a sincere effort to find a job. 871 IAC 24.22(3).

All claimants, on an initial claim, shall state that they are registered for work and shall list their principal occupation. The claims taker will then assign a group code to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. 871 IAC 24.2(1)(c). Group 6 claimants are those individuals whose occupations are of a nature that utilize résumés or who are normally unable, due to factors such as occupation, distance, etc., to make in-person contacts for employment. 871 IAC 24.2(1)(c)(6). Group 2 claimants are those individuals who do not otherwise meet the qualification for group 1, 3, 4, 5 or 6. 871 IAC 24.2(1)(c)(2).

The evidence in the record establishes that the claimant was erroneously coded as a Group 2 claimant, when, in fact, he should have been coded as a Group 6 claimant since he is a pilot. The evidence indicates the claimant actively looked for work during the week ending May 6, 2006. Therefore, the warning issued to the claimant was not warranted.

DECISION:

The unemployment insurance decision dated May 9, 2006, reference 03, is reversed. The claimant made an active and earnest search for work for the week ending May 6, 2006, and the warning shall be rescinded.

sdb/kkf