

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK J BRANDT
Claimant

APPEAL NO. 07A-UI-03385-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/04/07 R: 03
Claimant: Appellant (3)**

Section 96.4-3 - Able to and Available for Work
Section 96.4-3 - Active Work Search
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 27, 2007, reference 02, that warned that the claimant had failed to make two in-person job contacts for the week ending March 24, 2007. Whether the claimant was able to and available for work was also listed as an issue on the hearing notice. A telephone hearing was held on April 18, 2007. The claimant participated in the hearing.

ISSUE:

Was the claimant able to and available for work and did he make an active search for work for the week ending March 24, 2007?

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of February 4, 2007. At the time the claimant filed for benefits, the claimant was informed and understood that he was required to actively seek work by personally contacting two employers each week seeking employment.

During the week ending March 24, 2007, the claimant had traveled out of state on a church mission trip. Consequently, he did not make two in-person job contacts during the week. After the week ended, the claimant filed a weekly claim for benefits using the voice response system. The claimant reported that he was not available for work and had not made two in-person job contacts. Based on that response, the agency issued a warning that the claimant could be disqualified in a future week if he failed to make two in-person job contacts.

The claimant did not expect to receive benefit for the week but was paid \$360.00 in benefits for the week ending March 24, 2007.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3.

The claimant was not available for work during the week ending March 24, 2007. While the purpose of his trip was for a worthy purpose, he did not meet the legal standard for receiving benefits for that one week. Since he did not make an active search for work, the warning he was issued was proper since he did not contact two employers.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant was overpaid \$360.00 in benefits for the week ending March 24, 2007. This is required even though the overpayment was not the result of any fault by the claimant.

DECISION:

The unemployment insurance decision dated March 27, 2007, reference 02, is modified. The claimant failed to make an active search for work during the week ending March 24, 2007, and was properly warned. He was ineligible for benefits for that week because he was not available for work. The claimant was overpaid \$360.00 in unemployment insurance benefits, which must be repaid or recouped by offset against a future claim.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw