

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DELBERT L COLE
Claimant

APPEAL NO. 07A-UI-08065-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08-05-07 R: 03
Claimant: Appellant (2)

Section 96.4-3 - Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 14, 2007, reference 01, decision that warned him about making two in-person job contacts per week. After due notice was issued, a hearing was held on September 4, 2007. The claimant did participate.

ISSUE:

Did the claimant have good cause for failing to make an active and earnest search for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending August 11, 2007. The claimant did not make two in-person work searches for that week. The claimant applied for benefits at his local workforce office on Wednesday of the week in question. When he applied he was not told he had to make two in-person job searches nor was he given the booklet that told him how to deal with his claim. He was told that all the information would be mailed to him. The claimant did not receive the information booklet until Saturday. By the time he was informed that he was required to make two in-person job contacts, it was physically too late for him to accomplish the task, given that the agency delayed in giving him the instructions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made an active and earnest search for work.

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 because the agency delayed in informing him of the need for two in-person job contacts per week, it was physically impossible for the claimant to comply when notified of the requirement on Saturday at approximately 2:00 p.m. The claimant cannot be punished for the agency's failure to notify him of his obligations. Accordingly, the warning shall be removed from the claimant's record.

DECISION:

The August 14, 2007, 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 inappropriate and is removed from the claimant's record.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw