

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA A POWER**  
Claimant

**APPEAL NO. 09A-UI-00767-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 12/21/08 R: 03  
Claimant: Appellant (2)**

Section 96.4-3 – Adequate Work Search  
Section 96.4-6-a – Department Approved Training  
871 IAC 24.39(2) – Department Approved Training – Able and Available

**STATEMENT OF THE CASE:**

Joshua Power (claimant) appealed a representative's January 13, 2009, decision (reference 01) that concluded he had made fewer than the required two in-person job contacts and that a warning should be issued. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on January 28, 2009. The claimant participated personally.

**ISSUE:**

The issue is whether the claimant is required to actively and earnestly seek work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on December 21, 2008. For the week ending January 10, 2009, the claimant failed to make a minimum of two in-person contacts because he was approved for Department-Approved Training (DAT) from January 4 through May 9, 2009. He understood that he was not required to make job contacts after having been approved for DAT.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not required to actively and earnestly seek work.

871 IAC 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for

department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

The claimant is not required to make two in-person contacts for the weeks he is approved for DAT. The able and available requirement is waived due to claimant's DAT status pursuant to 871 IAC 24.39(2). Accordingly, the warning shall be rescinded.

**DECISION:**

The representative's January 13, 2009 decision (reference 01) is reversed. The warning shall be rescinded.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/kjw