

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY A EPSTEIN
Claimant

APPEAL NO. 10A-UI-01421-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 10/11/09
Claimant: Appellant (2)**

Section 96.4-3 - Active Work Search

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 20, 2010, reference 01, that warned that the claimant had failed to make two in-person job contacts for the week ending January 16, 2010. A telephone hearing was held on February 15, 2010. The claimant participated in the hearing.

ISSUE:

Did the claimant actively search for work?

FINDINGS OF FACT:

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. The claimant was approved to make contacts by résumé.

The claimant made more than two job contacts during the week ending January 16, but only one was in-person. After the week ended, the claimant filed a weekly claim for benefits using the voice response system. The claimant reported that he had made one job contact because he did not know the applications submitted by email counted. 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 job contacts.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 24.23(28) provides:

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

The claimant made an active search for work in accordance with the law and the instructions given to him for the week ending January 16. The warning was therefore unwarranted.

DECISION:

The unemployment insurance decision dated January 20, 2010, reference 01, is reversed. The agency shall remove the warning from its records, since issuance of the warning was unwarranted.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw