

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

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IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-06154-SWT
OC 04/04/04 R 03
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 is 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 Work Search

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 25, 2004, reference 03, that warned that the claimant had failed to make two in-person job contacts for the week ending May 22, 2004. A telephone hearing was held on June 24, 2004. The claimant participated in the hearing.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 4, 2004. 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 working for two temporary service employers during the week ending May 22, 2004, but earned less than his earnings limit. The claimant did not make two in-person job contacts during the week ending May 22. After the week ended, the claimant filed a weekly claim for benefits using the voice response system. The claimant reported his wages and that he 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.

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 law provides that requirements being able to work, available for work, and actively seeking work are waived if the person is partially unemployed. Iowa Code Section 96.4-3. In this case, the claimant was partially unemployed and the requirement of making two in-person job contacts should be waived. The warning was therefore unwarranted.

DECISION:

The unemployment insurance decision dated May 25, 2004, reference 03, is reversed. The agency shall remove the warning from its records since issuance of the warning was unwarranted.

saw/kjf