

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA A EVANS
Claimant

APPEAL NO. 07A-UI-09083-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/02/07 R: 02
Claimant: Appellant (2)

Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Patricia Evans filed a timely appeal from the September 18, 2007, reference 03, decision that warned her that she was required to make a minimum of two in-person job contacts each week she claimed unemployment insurance benefits. After due notice was issued, a hearing was held on October 9, 2007. Ms. Evans participated. Department Exhibits D-1 and D-2 were received into evidence.

ISSUE:

Whether the claimant failed to make an active and in earnest search for work during the benefit week that ended September 15, 2007.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Patricia Evans established a claim for unemployment insurance benefits that was effective September 2, 2007 and has received benefits. At the time Ms. Evans established her claim for benefits, the Agency determined that she was a “group 2” claimant, that is, a claimant who ordinarily would obtain new employment by means of in-person job contacts. Ms. Evans has in fact sought new employment that would ordinarily be obtained through in-person job contacts.

Ms. Evans has utilized the Agency’s automated telephone reporting system to make her weekly report to the Agency. For the benefit week that ended September 15, 2007, Ms. Evans reported two employer contacts, but indicated the contacts were not in-person. Ms. Evans had in fact made two employer contacts during the week in question. One contact, with the Osage library, was in-person. The second contact, with Scott’s Pump House, was by telephone. Scott’s Pump House is a business owned by Ms. Evans brother.

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".

The greater weight of the evidence indicates that Ms. Evans made two employer contacts during the benefit week that ended September 15, 2007. One contact was in-person and the other was by telephone. The greater weight of the evidence indicates that Ms. Evans had a well-established relationship with the owner of Scott's Pump House and that her decision to contact this employer by telephone, rather than appear in-person, was reasonable under the circumstances. Accordingly, the administrative law judge concludes that Ms. Evans met the minimum work search requirement during the benefit week that ended September 15, 2007. This conclusion does not relieve Ms. Evans from the future requirement that she make a minimum of two in-person job contacts each week she claims unemployment insurance benefits.

DECISION:

The Agency representative's September 18, 2007, reference 03, decision is reversed. The claimant made an active and earnest search for work during the week that ended September 15, 2007. The claimant is required to make a minimum of two in-person job contacts each week she claims unemployment insurance benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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