

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

Appeal Number: 05-IWDUI-0970
OC: 05/22/05
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

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.

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STATE CLEARLY

INVESTIGATION AND RECOVERY
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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 the department. 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.

DAN ANDERSON, IWD

(Administrative Law Judge)

JULY 22, 2005

(Decision Dated & Mailed)

Section 96.4-3 - Able and Available
871 IAC 24.22 – Benefits eligibility
871 IAC 24.23(3) – Earnestly and Actively Searching for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development Department decision dated June 27, 2005, reference 02, which warned the claimant he needed to make a minimum of two (2) in-person job contacts each week while claiming for unemployment benefits.

The hearing was held pursuant to due notice on July 18, 2005, by telephone conference call. The claimant participated. Larry Finley, Investigator, participated on behalf of Iowa Workforce

Development. Department Exhibits One and Two were received as evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, finds: The claimant filed an unemployment claim effective May 22, 2005. The claimant does not have experience regarding unemployment claims. The claimant did receive a department information booklet that provides information that he needs to make at least two (2) in-person job contacts each week while claiming for benefits. A department representative communicated the two (2)-employer job contact standard to the claimant.

Investigator Finley received a request from the claimant's last employer (base period employer) to review his work-search effort. Finley mailed a notice to the claimant requesting his work-search history for a five-week period from May 28, 2005 to June 25, 2005, and the claimant responded by proving a list of names and dates that he contacted employers.

Finley noted that the claimant made a total of eight (8) job contacts during the five-week period, and that he listed only one (1) employer job contact for the weeks ending May 28, and June 4, 2005.

The department issued a warning decision in this matter that does not impose any benefit disqualification.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant should be warned regarding his 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".

871 IAC 24.22(96) Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

871 IAC 24.23(3) Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work.

(b) *Number of employer contacts.* The number of contacts that an individual must make is dependent upon the condition of the local labor market, the duration of benefit

payments, a change in the individual's characteristics, job prospects in the community, and other factors as the department deems necessary.

The administrative law judge concludes that the work search warning is correct based on the work-search history information provided by the claimant pursuant to the law sections cited above. The department established the standard in its information booklet that the claimant needed to make at least two (2) in-person job contacts each week, and the claimant acknowledged that a department representative communicated this to him when he filed his claim.

The claimant argued that he left-off two job contacts on his work-search history form at the end of the five-week period that would have satisfied the minimum requirement. Even adding the two job contacts would not satisfy the requirement, as the deficiency does not offset the failure to make at least two (2) job contacts in the first two-weeks of unemployment claims. In addition, the claimant should be cautious in listing the appropriate dates he contacts prospective employers, as they need to be done in the week he is filing the claim.

DECISION:

The decision of the representative dated June 27, 2005, reference 02, is **AFFIRMED**. The claimant is warned that he needs to make at least two (2)-job contacts in-person each week in order to remain eligible for unemployment benefits.

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