

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOB R DUART
Claimant

APPEAL NO. 09A-UI-02926-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 01/11/09
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available/Work Search

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 17, 2009, reference 01, decision that warned claimant to make at least two in-person work search contacts per week but did not deny benefits for the week ending February 14, 2009. After due notice was issued, a telephone conference hearing was scheduled to be held on March 18, 2009. Claimant participated in the hearing.

ISSUE:

The issue is whether claimant made an adequate work search for the week ending February 14, 2009 and if the warning was appropriate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed benefits for the week ending February 14, 2009 and did make two in-person work searches for that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made an active and earnest search for work.

Iowa Code § 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 has sufficiently demonstrated to the satisfaction of the administrative law judge an active and earnest search for work for the week ending February 14, 2009. Accordingly, the warning was not appropriate.

DECISION:

The February 17, 2009, reference 02, decision is reversed. The claimant did make an active and earnest search for work for the week ending February 14, 2009. Therefore, the warning was not appropriate.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/kjw