

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELENA O SCHLOTE
Claimant

APPEAL NO. 10A-UI-06259-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 06/28/09
Claimant: Appellant (1)**

Section 96.4-3 – Adequate Work Search
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Melena Schlote (claimant) appealed a representative's April 14, 2010, decision (reference 03) that concluded she had made fewer than the required two in-person job contacts and that a warning should be issued. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 2, 2010. The claimant participated personally.

ISSUE:

The issue is whether the claimant is actively and earnestly seeking work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on June 28, 2009. For the week ending April 10, 2010, the claimant failed to make a minimum of two in-person contacts. The claimant was ill and unable to work from April 5 through April 25, 2010. Her physician returned her to work without restrictions on April 26, 2010.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not actively and earnestly seeking work due to illness.

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 claimant did not make two in-person contacts for the week ending April 10, 2010. Making two in-person contacts is evidence of earnestly and actively seeking work. The evidence does not support a finding that the claimant was earnestly and actively seeking work and, therefore, the warning shall remain in full force and effect.

871 IAC 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant was unable to work from April 5 through 25, 2010. She is considered to be unavailable for work for that period. The claimant is disqualified from receiving unemployment insurance benefits from April 5 through 25, 2010, due to her unavailability for work.

DECISION:

The representative's April 14, 2010 decision (reference 03) is affirmed. The warning shall remain in full force and effect. The claimant is disqualified from receiving unemployment insurance benefits from April 5 through 25, 2010, due to her unavailability for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw