

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICCI J NORMAN
Claimant

APPEAL NO. 10A-UI-08392-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/25/10
Claimant: Appellant (1-R)

Section 96.4-3 – Able and Available
871 IAC 24.22(2)O – Lawfully Authorized to Work

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated June 8, 2010, reference 01, that held she has not provided proof to the department she is legally authorized to work in the United States, and benefits are denied May 30, 2010. A hearing was held on July 21, 2010. The claimant participated. Department Exhibit One was received as evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the claimant's testimony and having considered the evidence in the record, finds that: The claimant filed an unemployment claim effective April 25, 2010, and she stated she was not a United States Citizen. The matter was referred to Investigation & Recovery to determine whether claimant was legally authorized to work in the United States.

The claimant provided to her Ottumwa Workforce Center documents that included her Alien registration card and current Iowa Driver's License. The documents were copied and sent to Investigations & Recovery. The copied-documents were not legible and a second set was re-submitted. The department investigator identified claimant's date of birth as 09-30-59 (or 09-24-59) when it is 09-30-52.

Claimant was instructed to return to the Ottumwa Workforce Center, and provide legible copies of her documents that clearly show her correct date of birth as 09-30-52. A workforce center is directed to verify claimant's alien registration number with date of birth and forward legible documentation to Investigation & Recovery in order to verify with INS that claimant is legally authorized to work in the United States.

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 administrative law judge concludes that the claimant has failed to establish with current documentation that she is legally authorized to work in the United States effective May 30, 2010.

The department needs to provide Investigation & Recovery with legible documents so that it may verify the claimant's identity, alien registration number and date of birth, so it can check that information with INS to determine claimant is legally authorized to work. In addition, the department representative who receives the information should personally verify all of the above when transmitting the documents to Investigation & Recovery.

DECISION:

The decision of the representative dated June 8, 2010, reference 01, is affirmed. The claimant has failed to establish she is legally authorized to work in the United States, but this matter is remanded to Investigation & Recovery to issue a new decision on this issue when the verified information is provided and checked with INS.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs