

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAULETTE R ADAMS**  
Claimant

**APPEAL NO. 07A-UI-05993-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/27/07 R: 02**  
**Claimant: Appellant (1)**

Section 96.4(3) – Able & Available  
Section 96.4(3) – Active & Earnest Work Search

**STATEMENT OF THE CASE:**

Paulette Adams filed a timely appeal from the June 12, 2007, reference 01, decision that warned her she was required to make two in-person job contacts each week she continued her unemployment insurance claim. After due notice was issued, a hearing was held on July 2, 2007. Ms. Adams participated. The administrative law judge took official notice of the Agency's record of the claimant's weekly calls via the automated telephone reporting system. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The administrative law judge received claimant's Exhibit A and Department Exhibit D-1 into evidence.

**ISSUE:**

Whether the claimant was able to work and available for work during the benefit week that ended June 9, 2007.

Whether the claimant made an active and earnest search for work during the benefit week that ended June 9, 2007.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Paulette Adams established a claim for benefits effective May 27, 2007. During the benefit week that ended June 9, 2007, Ms. Adams was out-of-state on vacation. Ms. Adams left for her vacation on Saturday, June 2 and returned on Friday, June 8. Ms. Adams did not receive any benefits for the week in question. During the week in question, Ms. Adams did not make two *in-person* job contacts. Ms. Adams did make telephone contact with a "headhunter" and with a prospective law firm employer. Ms. Adams has experience as a legal secretary. Ms. Adams' method of job search conforms to the wishes of prospective employers and includes submission of resumes, e-mail and telephone correspondence, and in-person applications.

## 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".

871 IAC 24.22(2) provides:

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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

871 IAC 24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The evidence indicates that Ms. Adams was out-of-state for personal reasons during the majority of the benefit week that ended June 9, 2007. Accordingly, Ms. Adams did not meet the work availability requirements of Iowa Code section 96.4(3) and would not have been eligible for benefits during the week that ended June 9, 2007. The greater weight of the evidence indicates that Ms. Adams was not actively and earnestly engaged in a work search during the benefit week that ended June 9, 2007.

**DECISION:**

The Agency representative's June 12, 2007, reference 01, is affirmed. The claimant was not available for work during the benefit week that ended June 9, 2007 and, therefore, is not eligible for benefits for that one week. The claimant did not make an active and earnest search for work during the benefit week that ended June 9, 2007. Because the claimant received no benefits for the week in question, there is no overpayment to address.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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