

**IOWA DEPARTMENT OF INSPECTIONS AND
APPEALS**

Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**JASON VEN DER VEER
301 HIGH STREET
CHILLICOTHE IA 52548**

**INVESTIGATIONS AND RECOVERY
IOWA WORKFORCE DEVELOPMENT
1000 EAST GRAND AVENUE
DES MOINES IA 50319**

DAN ANDERSON, IWD

**Appeal Number: 05-IWDUI-0943
OC: 06/20/04
Claimant: Appellant (1)**

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.

STATE CLEARLY

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.

(Administrative Law Judge)

May 20, 2005

(Decision Dated & Mailed)

Section 96.4-3 - Able and Available
871 IAC 24.22(3)c,f – Search for Work/Professional Employee

STATEMENT OF THE CASE:

The claimant filed an appeal from a Iowa Workforce Development Department decision dated April 19, 2005, reference 05 that warned the claimant that he is required to make a minimum of two (2) job contacts each week while claiming for unemployment benefits beginning January 30, 2005.

The hearing was held pursuant to due notice on May 16, 2005, by telephone conference call. The claimant participated. Karen von Behren, Investigator, participated on behalf of Iowa Workforce Development.

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 that: The claimant filed a claim for unemployment insurance benefits effective June 20, 2004. The claimant has a work history of being a nursing home administrator. The claimant did file a claim for benefits as to the week ending June 26, but he received no benefits due to being re-employed and receiving excessive earnings. More recently, the claimant worked as an administrator for the Griffin Nursing Home from late June 2004 to December 20, 2004.

A department record shows that the claimant was authorized to make a work-search by the use of a resume in January 2005. A department policy is that resumes may be accepted as employer contacts if this is the customary means to secure employment in the individual's regular occupation.

During a fact-finding interview on April 18, 2005, the claimant advised Investigator von Behren that he had made four employer contacts by resume or otherwise in one week, and none the next week, such that he considered the average work search to meet the minimum of four (4) contacts over a two-week period. During the hearing, the claimant admitted that he failed to make the necessary job contacts each week.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant should have been 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(3) *Earnestly and actively seeking work.*

c. *Union and professional employees. Members of unions and professional employees who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain contact with the union's business agent or with the placement officer in the professional organization.*

f. *Search for work.*

(3) *The group assignment of individuals is used, to a certain extent, in determining which ones are required to make personal applications for work.*

The administrative law judge concludes that the claimant should have been warned regarding the

issue of making two (2) employer contacts each week while claiming for unemployment benefits. The claimant admitted his shortcoming of failing to make the necessary employer contacts whether by use of resume or in-person, such that the warning issued is appropriate in this case.

DECISION:

The decision of the representative dated April 19, 2005, reference 05, is **AFFIRMED**. The claimant is warned that he must make a minimum of two (2) employer job contacts each week.

rls