

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

VIRGINIA M WESTPHAL
201 MIDLAND DR
COUNCIL BLUFFS IA 51503

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-10672-S2T
OC: 08/29/04 R: 01
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 Workforce Development. 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)

(Decision Dated & Mailed)

Section 96.4-3

STATEMENT OF THE CASE:

Virginia Westphal (claimant) appealed a representative's September 28, 2004, decision (reference 02) 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 October 28, 2004. The claimant did participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on August 29,

2004. For the week ending September 25, 2004, the claimant failed to make a minimum of two in-person contacts.

REASONING AND CONCLUSIONS OF LAW:

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

The claimant did not make two in-person contacts for the week ending September 25, 2004. 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.

DECISION:

The representative's decision dated September 28, 2004, (reference 02) is affirmed. The warning shall remain in full force and effect.

bas/b