

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALLEN A CARMICHAEL**  
Claimant

**APPEAL NO. 09A-UI-19624-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MAJONA CORP**  
Employer

**OC: 12/06/09**  
**Claimant: Appellant (1)**

Section 96.4-3 – Active Work Search

**STATEMENT OF THE CASE:**

Allen A. Carmichael filed a timely appeal from an unemployment insurance decision dated December 24, 2009, reference 01, that allowed benefits to him but required that he conduct an active work search. After due notice was issued, a telephone hearing was held February 10, 2010 with Mr. Carmichael participating. Exhibit A was admitted into evidence on his behalf. The employer, Majona Corporation, did not participate in the hearing because it did not provide the name and telephone number of a witness. The administrative law judge takes official notice of the employer's protest documentation.

**ISSUE:**

Is the claimant exempt from an active work search because he is on a temporary layoff?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Allen Carmichael was laid off by Majona Corporation on December 2, 2009 because of economic conditions. The employer sent Mr. Carmichael a letter stating in part, "Mr. Carmichael is available for rehire due to his good performance and standing while working at Majona Steel Corporation." When notified of the claim for benefits the employer notified the Agency, "No protest. Reduction in force layoff, permanent 12/2/09."

**REASONING AND CONCLUSIONS OF LAW:**

The question here is not whether Mr. Carmichael is eligible to receive unemployment insurance benefits. Instead, the question is whether he must conduct an active work search or whether he can merely wait to be recalled by Majona Corporation.

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 statute exempts an individual from a work search if the individual is temporarily laid off as provided in Iowa Code section 96.19-38-c.

Iowa Code section 96.19-38-c provides:

An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Nothing in this record indicates that the claimant would be recalled in four weeks or less. Furthermore, Agency benefit payment records establish that the claimant has requested unemployment insurance benefits for nine consecutive weeks. The claimant must conduct a work search.

**DECISION:**

The unemployment insurance decision dated December 24, 2009, reference 01, is affirmed. The claimant must conduct an active and earnest work search each week that he requests unemployment insurance benefits.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

CSS/CSS