

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID O HALLORAN
Claimant

APPEAL NO. 08A-UI-05107-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/04/08 R: 04
Claimant: Appellant (2)

Iowa Code § 96.4(3) - Able and Available – Work Search Warning

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 21, 2008, reference 02, decision that warned claimant he must make two weekly job searches to be eligible for benefits. After due notice was issued, a telephone conference hearing was held on June 11, 2008. Claimant participated.

ISSUE:

The issue is whether claimant made an adequate work search for the week ending May 17, 2008 and if the warning was appropriate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant claimed partial benefits for the week ending May 17, 2008 and reported wages for the three days he did work. He did not make two in-person work searches for that week because he worked the major portion of the work week but less than his regular hours.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not required to make an active and earnest search for work the week ending May 17, 2008.

Iowa Code § 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 24.23(28) provides:

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

The claimant was not required to make an active and earnest search for work for the week ending May 17, 2008 since he only claimed partial benefits for the week. Accordingly, the warning was not appropriate. Claimant is required to make at least two work searches per week effective May 18, 2008.

DECISION:

The May 21, 2008, reference 02, decision is reversed. The claimant was not required to make an active and earnest search for work for the week ending May 17, 2008. Therefore, the warning was not appropriate.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css