

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCIA L ADAIR
Claimant

APPEAL NO. 11A-UI-01525-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/05/10
Claimant: Appellant (1)

Section 96.4-3 – Adequate Work Search
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Marcia Adair (claimant) appealed a representative's February 1, 2011, 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 February 26, 2011. The claimant participated personally.

ISSUE:

The issue is whether the claimant was able and available for work .

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 December 5, 2010. For the two weeks ending February 5, 2011, the claimant failed to make a minimum of two in-person contacts because she was out of the country on a family vacation from January 22 through February 5, 2011.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not actively and earnestly seeking work for the two week period ending February 5, 2011.

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 weeks ending February 5, 2011. 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.

For the reasons that follow the administrative law judge concludes the claimant was not able and available for work for the two-week period ending February 5, 2011.

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.

When an employee is out of town for personal reasons, she is considered to be unavailable for work. The claimant was out of the country for the two-week period ending February 5, 2011. She is considered to be unavailable for work for the two-week period ending February 5, 2011. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending February 5, 2011, due to her unavailability for work.

DECISION:

The representative's February 1, 2011 decision (reference 02) is affirmed. The warning shall remain in full force and effect. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending February 5, 2011, due to her unavailability for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css