

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW S FARREY**  
Claimant

**APPEAL NO. 09A-UCX-00003-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/12/08 R: 03  
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available/Work Search  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a December 30, 2008, reference 03, decision that found the claimant warned for the week ending December 27, 2008, because of inadequate in-person work search contacts. After due notice was issued, a hearing was held on February 2, 2009, with the claimant participating. Exhibit A was admitted into evidence.

**ISSUE:**

The issue is whether the appeal is timely and whether claimant made adequate work searches.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's testimony that appropriate in-person work searches were made is credible. During the first week in which claimant filed an online claim, claimant did not apply for any jobs as he was traveling on personal business.

Claimant filed his appeal on January 16, 2009 when it was due January 9, 2009. Claimant had been away from home until January 14, 2009 and did not receive the notice. Claimant filed his appeal just a few days after receiving the notice.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether the appeal is timely.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address

to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Claimant filed a timely appeal as he filed immediately after actual notice of the adverse decision.

For the reasons that follow, the administrative law judge concludes that the claimant has not made appropriate in-person work search contacts.

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 demonstrated to the satisfaction of the administrative law judge that appropriate in-person work search contacts were not made for the week ending December 27, 2008. Claimant was busy traveling on personal business and could not apply for work. Accordingly, the warning stands as issued.

**DECISION:**

The December 30, 2008 reference 03, decision is affirmed. The claimant did not make appropriate in-person work search contacts for the week ending December 27, 2008. The warning stands as issued.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

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