

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS R STURHMAN
Claimant

APPEAL NO: 10A-UI-06595-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AQUA-TECH ENERGY CORP
Employer

OC: 05/31/09
Claimant: Appellant (1/R)

Section 96.4-3 – Active Search for Work

STATEMENT OF THE CASE:

The claimant appealed a representative's April 23, 2010 decision (reference 01) that informed him he was required to look for work by making a minimum of two job contacts a week. A telephone hearing was held on June 23, 2010. The claimant participated in the hearing. Julie Dane, the accountant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant be required to make an active search for work as of April 23, 2010?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of May 31, 2009. The claimant has worked as a seasonal employee for the employer since October 2005. The employer recalled the claimant to work in mid-October 2009. The claimant worked until he reopened his claim the week of April 4, 2010.

When the employer responded to the reopened notice of claim, the employer reported the claimant should look for work because the employer considered him a temporary employee and there was no guarantee he would be called back to work. As of the date of the hearing, the employer did not know if temporary employees would be called back to work in the fall because the employer is involved in contract negotiations with a major customer and has been unable to secure a contract for an extended time.

The claimant has been looking for work and recording his job contacts. He has no objections to looking for work.

REASONING AND CONCLUSIONS OF LAW:

Before a claimant is considered eligible to receive weekly unemployment insurance benefits, he must make an active search for work. Iowa Code section 96.4-3. The administrative rule states

an individual shall be ineligible for benefits for any period for which the department finds the individual failed to make an earnest and active search for work. An individual must make a sincere effort to find a job. 871 IAC 24.22(3). However, work search requirements can be waived by the Department.

The record indicates that when the claimant initially established his claim the week of May 31, 2009, the Department did not require him to look for work. The Department classified him as a claimant who was temporarily unemployed for a period not exceed four consecutive weeks due to a lack of work. 871 IAC 24.2-10-c(3). Based on the employer's response when the claimant reopened his claim the week of April 4, 2010, the Department then decided the claimant would be required to look for work because the employer could not guarantee that he would be recalled to work. Since the claimant no longer met the requirements of being temporarily laid off from work, as of April 23, 2010, he is required to look for work.

The record indicates the claimant established a subsequent benefit year the week of May 30, 2010. While the claimant may not be monetarily eligible to receive benefits under Iowa Code 96.4-4-a, this claim is remanded to the Claims Section to determine if the claimant is monetarily eligible to receive benefits under Iowa Code section 96.4-4-b - the alternate base period.

DECISION:

The representative's April 23, 2010 decision (reference 01) is affirmed. As of April 23, 2010, the claimant is required to look for work. This claim is remanded to the Claims Section to determine if the claimant is eligible to receive benefits under Iowa Code section 96.4-4-b.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs