

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY J BORGER
Claimant

APPEAL NO. 13A-UI-06088-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARRIE FOODS LTD
Employer

OC: 07/01/12
Claimant: Appellant (2/R)

Section 96.4-3 – Adequate Work Search

STATEMENT OF THE CASE:

Mary Borger (claimant) appealed a representative's May 17, 2013, decision (reference 01). The decision advised claimant that she was no longer considered temporarily unemployed and must begin to search for work by making no fewer than two in-person job contacts per week. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 27, 2013. The claimant participated personally. The employer participated by Mike Ochsner, Former Vice President

ISSUE:

The issue is whether the claimant must begin to search for work by making no fewer than two in-person job contacts per week.

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 a claim for unemployment insurance benefits with an effective date of July 1, 2012. This employer notified IWD that claimant was permanently, not temporarily, laid off from her work with them as a full-time seasonal production cook. The claimant worked when school was in session at Dordt College. She worked for the employer through May 13, 2013, when the employer went out of business. The claimant was then hired by Creative Dining Services (telephone number 712-722-6441) in Sioux Center, Iowa, to perform the same food service work for Dordt College on May 14, 2013. She was laid off during the summer months of 2013.

REASONING AND CONCLUSIONS OF LAW:

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 was permanently separated from this employer on May 13, 2013, but she was immediately hired by another employer as a full-time seasonal production cook. The claimant was not temporarily laid off on May 13, 2013, and therefore, there is no requirement that she conduct at least two in-person work searches during each week benefits are claimed.

The matter is remanded to the Tax Department to determine if the claimant continues to be employed with Creative Dining Services.

DECISION:

The representative's May 17, 2013 decision (reference 01) is reversed. The claimant was not temporarily laid off on May 13, 2013, and therefore, there is no requirement that she conduct at least two in-person work searches during each week benefits are claimed. The matter is remanded to the Tax Department to determine if the claimant continues to be employed with Creative Dining Services.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs