

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN G WINDSCHITL**  
Claimant

**APPEAL NO. 07A-UI-03168-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/16/08 R: 02  
Claimant: Appellant (1)**

Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

John Windschitl filed a timely appeal from the March 27, 2008, reference 01, decision that warned him he was required to make a minimum of two job contacts during each week he claimed benefits and that concluded Mr. Windschitl had failed to make job contacts during the benefit week that ended March 22, 2008. After due notice was issued, a hearing was held on April 14, 2006. Mr. Windschitl participated. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of the claimant's claim group code. The administrative law judge took official notice of the Agency's administrative record of the claimant's responses to the telephonic weekly claim reporting system.

**ISSUES:**

Whether the claimant had an active claim for unemployment insurance benefits during the benefit week that ended March 22, 2008.

Whether the claimant demonstrated an active and earnest search for employment during the benefit week that ended March 22, 2008.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On Thursday, March 20, 2008, John Windschitl utilized the Agency's Internet website to establish a claim for unemployment insurance benefits that was effective March 16, 2008. Mr. Windschitl received benefits for the week ending March 22, 2008 and for subsequent weeks. At the time Mr. Windschitl applied for benefits, he erroneously concluded that the claim would be effective during the week that started Sunday, March 23, 2008. This conclusion was contrary to information provided on the Agency's website. Mr. Windschitl did not search for employment during the week that ended March 22, 2008. Mr. Windschitl was not employed during the week that ended March 22, 2008. Mr. Windschitl has a Bachelor of Arts Degree and a background in mass communications. Mr. Windschitl's search for employment has been based on submission of resumes to prospective employers. During the subsequent two weeks of the claim for benefits, Mr. Windschitl submitted resumes to two or more prospective employers.

## 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".

Workforce Development rule 871 IAC 24.23(27) provides as follows:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

24.23(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

The weight of the evidence in the record indicates that Mr. Windschitl established a claim for benefits that was in effect for the week that ended March 22, 2008 and that Mr. Windschitl received benefits for the week that ended March 22, 2008. The evidence indicates that Mr. Windschitl was not engaged in an active and earnest search for employment during the week that ended March 22, 2008. Accordingly, the March 27, 2008, reference 01, warning was appropriate.

871 IAC 24.2(1)(c)(6) provides as follows:

c. All claimants on an initial claim shall state that they are registered for work and shall list their principal occupation. The claims taker will then assign a group code to the claimant to control the type of registration that is made. Code assignments will be based on all facts obtained at the time of the claim filing. The group codes are:

(6) Group "6" claimants are those individuals whose occupations are of a nature that utilize résumés or who are normally unable, due to factors such as occupation, distance, etc., to make in-person contacts for employment.

The evidence in the record establishes that the claimant's group code classification is appropriate.

**DECISION:**

The Agency representative's March 27, 2008, reference 01, decision is affirmed. The claimant did not demonstrate an active and earnest search for employment during the benefit week that ended March 22, 2008. The March 27, 2008, reference 01, warning did not result in a loss of benefits for the week in question. However, a failure to demonstrate an active and earnest search for employment in future weeks while the claim is active may well result in loss of benefit eligibility.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw