

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY A WINTERS**  
Claimant

**APPEAL NO: 08A-UI-04420-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF CEDAR RAPIDS**  
Employer

**OC: 11/18/07 R: 04  
Claimant: Appellant (4)**

Section 96.4-3 - Active Search for Work

**STATEMENT OF THE CASE:**

Jeffrey A. Winters (claimant) appealed a representative's March 5, 2008 decision (reference 09) that advised him that he needed to make the minimum two job contacts as he was no longer temporarily unemployed with his former employer, Manpower Inc. of Cedar Rapids (employer). The claimant did not receive the initial representative's decision; it was resent to him on April 11, 2008. An identical decision was issued on April 23, 2008 (reference 11). After a hearing notices were mailed to the parties' last-known address of record, a telephone hearing was held on May 20, 2008. The claimant participated in the hearing. Debbie Chamberlain participated on the part of the employer. During the hearing, Exhibit A-1 was entered into evidence. 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:**

Is the claimant temporarily unemployed so that he is exempt from the work search requirement?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments with the employer in about November 2007. The claimant established an unemployment insurance benefit year effective November 18, 2007 and began filing weekly claims showing his wages earned each week, and for weeks in which his wages were less than \$301.00 (his weekly benefit amount plus \$15.00) he received partial unemployment insurance benefits. That initial assignment ended at the end of December 2007 and he returned to the employer for reassignment to a new employer in January 2008.

He worked and filed weekly claims for the first two weeks of January 2008, reporting \$180.00 in wages each week and receiving partial benefits. For the five-week period beginning January 13 through the week ending February 16, 2008 the claimant reported no wages and received his full weekly benefit amount for those weeks. He then resumed working an assignment through the employer; from the week ending February 23 through the week ending May 17 (the most recently completed week as of the date of the hearing) the claimant filed weekly claims reporting some wages each week and receiving partial benefits for the weeks in which his wages earned

did not exceed \$301.00. He did not file weekly claims for the period beginning March 2 and ending April 5, but reopened his claim with an additional claim effective April 6, 2008.

For certain weeks in which the claimant did not have an assignment with the employer or when he was working shorter hours, such as the period of time in February 2008, the employer filed reports with the Agency indicating that the employer did not consider the claimant to be “temporarily unemployed” and that the employer expected the claimant to be searching for other work. This resulted in the Agency issuing its decisions to the claimant that he was subject to the work search requirements.

### **REASONING AND CONCLUSIONS OF LAW:**

There was a timeliness of appeal issue also included for consideration in this case. The claimant has not actually been disqualified for benefits for any of the weeks for which he has filed continued weekly claims; he merely is seeking clarification as to why he should be subject to a work search requirement given his continued employment with the employer. The administrative law judge concludes that issue is moot given the week-to-week nature of the underlying eligibility question, as further demonstrated by the fact that there have been multiple identical decisions issued to the claimant as his status continued to fluctuate.

Iowa Code § 96.4-3 and 871 IAC 24.22(3) provide that to be eligible for unemployment insurance benefits a claimant must make a personal and diligent effort to find a job. Most claimants are subject to the general requirement to make two in-person job contacts. 871 IAC 24.2-1-c(2). However, the work search requirement is waived for persons deemed temporarily or partially unemployed. Iowa Code § 96.4-3. Persons who are “temporarily” unemployed are “workers who are employed on a reduced workweek or temporarily unemployed for a period, verified by the department, not to exceed four consecutive weeks, due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual’s regular “employer”; persons who are “partially” unemployed include persons who while still employed for person’s then regular employer work less than the regular full-time week and earn less than the person’s weekly benefit amount plus fifteen dollars Iowa Code § 96.19-38-b,c; 871 IAC 24.2-1-c(3). These persons are classified as “group three” claimants.

While the employer may wish to have the claimant searching for another job even if he has been off work less than four weeks or when he works minimal hours in a week, the employer’s desire does not control over the law’s work search requirements as set forth in the statute and rule for him to be eligible for unemployment insurance benefits. Unless the employer determines that the claimant’s eligibility for further employment with the employer is terminated or unless the length of time the claimant remains off work exceeds four weeks, the claimant is not subject to the work search requirement in order to remain eligible for unemployment insurance benefits.

While there has been at least one period of time since January 2008 that the claimant’s length of time off work did exceed four weeks, he has not been off for that length of time since reopening his claim effective April 6, 2008. Accordingly, from that time he is not subject to the work search requirement, until such time as his eligibility for further employment with the employer is terminated or unless the length of time the claimant is fully off work exceeds four weeks.

**DECISION:**

The unemployment insurance decision dated March 5, 2008 (reference 09) is modified in favor of the claimant. For the week ending February 16, 2008 the claimant should have been subject to the work search requirement as having lost his status as “temporarily” or “partially” unemployed. However, the claimant subsequently became reemployed by the employer, and has not yet again lost his status as being at least “temporarily” or “partially” unemployed for purposes of unemployment insurance benefit eligibility. The claimant is not currently subject to the work search requirement in order to be eligible for unemployment insurance benefits. This decision should also be applied to the subsequent identical decision issued April 23, 2008 (reference 11). The claimant should currently be classified as a “group three” claimant.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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