

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY J BORGER
Claimant

APPEAL NO. 13A-UI-06089-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

Section 96.4-3 – Adequate Work Search

STATEMENT OF THE CASE:

Mary Borger (claimant) appealed a representative's May 21, 2013, decision (reference 02) that concluded she had made fewer than the required two in-person job contacts and that a warning should be issued. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 27, 2013. The claimant participated personally.

ISSUE:

The issue is whether the claimant is actively and earnestly seeking work.

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 for unemployment insurance benefits on July 1, 2012. On May 17, 2013, a representative's decision (reference 01) was mailed to the claimant that indicated she was no longer temporarily unemployed with her former employer and, therefore, had to seek work by contacting at least two employers each week.

For the week ending May 18, 2013, the claimant filed her telephone claim. She was asked to respond to how many in-person job contacts she had made. The claimant responded "0". She did not understand why she was being asked the question because she had not received the May 17, 2013 representative's decision informing her of her duty to seek work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the warning should be rescinded.

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 not informed of her duty to make two in-person contacts for the week ending May 18, 2013, until after she reported for the week. Accordingly, the warning shall be rescinded.

DECISION:

The representative's May 21, 2013 decision (reference 02) is reversed. The warning shall be rescinded.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs