

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**ROBERT A TISOR  
14025 HWY 98  
DOUDS IA 52551**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**Appeal Number: 05A-UI-11421-CT  
OC: 09/11/05 R: 03  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Robert Tisor filed an appeal from a representative's decision dated October 6, 2005, reference 02, which denied benefits effective October 2, 2005 on a finding that he was not available for work. After due notice was issued, a hearing was held by telephone on November 23, 2005. Mr. Tisor participated personally.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Mr. Tisor at his address of record on October 6, 2005. He did not

receive the decision and did not learn of it until he went to his local office on or about November 7, 2005. His appeal was filed on November 7, 2005.

Mr. Tisor was out of state from September 18 through October 31, 2005. He was visiting in the state of Washington and also looking for work there. He did not notify his local office that he would be out of town.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Mr. Tisor's appeal should be considered timely filed as required by Iowa Code section 96.6(2). He testified that he did not receive the disqualifying decision. Absent evidence to the contrary, his testimony is accepted as true. Because he did not receive the decision, he could not have filed an appeal by the October 16, 2005 due date. Therefore, the appeal filed on November 7, 2005 shall be deemed timely filed.

The next issue is whether Mr. Tisor has satisfied the availability requirements of the law since filing his claim effective September 11, 2005. He was in Washington visiting and looking for work. However, he did not notify his local office that he was leaving town to seek work. He was notified of this requirement in the "Facts for Workers" booklet he received when he filed his claim. Because he was not in the local labor market during the period from September 18 through October 31, 2005, Mr. Tisor was not available for work as required by Iowa Code section 96.4(3). See 871 IAC 24.23(25). Therefore, he is not entitled to job insurance benefits during the period at issue.

#### DECISION:

The representative's decision dated October 6, 2005, reference 02, is hereby affirmed. Mr. Tisor is denied benefits from September 18 through October 29, 2005 as he was not available for work in the local labor market. Benefits are allowed effective October 30, 2005, provided he satisfies all other conditions of eligibility and is not otherwise disqualified.

cfc/s