

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY E STONEBURNER
Claimant

APPEAL NO. 09A-UI-03921-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCED COATING SYSTEMS LLC
Employer

OC: 02/08/09
Claimant: Appellant (4)

Section 96.4-3 – Availability for Work
Section 96.5-3-a – Refusal of Recall to Work

STATEMENT OF THE CASE:

Timothy E. Stoneburner filed a timely appeal from an unemployment insurance decision dated March 9, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held April 2, 2009 with Project Manager Randy Obranovic participating for the employer, Advanced Coating Systems, LLC. Mr. Stoneburner did not provide a telephone number at which he could be contacted.

ISSUES:

Did the claimant refuse recall to work?

Was the reason for the refusal one that would disqualify him for benefits or leave him ineligible?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Timothy E. Stoneburner, an employee of Advanced Coating Systems, was laid off due to a lack of work on February 5 and 6, 2009. He filed a claim for unemployment insurance benefits effective Sunday, February 8, 2009. On February 9, 2009, Project Manager Randy Obranovic attempted unsuccessfully to contact Mr. Stoneburner to let him know that he should return to work on February 13, 2009. Mr. Obranovic was unable to contact Mr. Stoneburner directly until February 16, 2009. Mr. Stoneburner declined recall to work at that time because he had lost his driving privileges due to an OWI conviction. He last filed a claim for unemployment insurance benefits for the week ending March 14, 2009. He has found alternate transportation and has returned to work.

REASONING AND CONCLUSIONS OF LAW:

The question here involves the unemployment insurance consequences of the events described in the findings of fact. The record establishes that the employer did not contact Mr. Stoneburner until February 16, 2009 and that in any event no work would have been available until

February 13, 2009. From this the administrative law judge concludes that benefits should be allowed to Mr. Stoneburner for that week. He did not work for the next four weeks because he lacked transportation from his home to the employer's premises. One who is off work for such a reason is considered to be unavailable for work. Benefits must be denied pursuant to Iowa Code section 96.4-3.

Denial of benefits pursuant to Iowa Code section 96.4-3 is on a week by week basis. The law does not require an individual to earn ten times the individual's weekly benefit amount as a condition to requalifying for unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated March 9, 2009, reference 01, is modified. The claimant is eligible to receive unemployment insurance benefits for the week ending February 14, 2009. Benefits are withheld for the period February 15, 2009 through March 14, 2009 because the claimant was not available for work.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs