

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COLTON L GAGE
Claimant

APPEAL NO. 11A-UI-08209-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LYNCH LIVESTOCK INC
Employer

OC: 05/1511
Claimant: Appellant (2-R)

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The claimant, Colton Gage, filed an appeal from a decision dated June 14, 2011, reference 01. The decision found the claimant was not eligible for unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 18, 2011. The claimant participated on his own behalf. The employer, Lynch Livestock, participated by Director of Human Resources Kerry Abel.

ISSUE:

The issue is whether the claimant is able and available a for work.

FINDINGS OF FACT:

Colton Gage was employed by Lynch Livestock beginning May 2, 2009, as a part-time yard worker. He went to full-time status effective February 18, 2011. He filed a claim for unemployment benefits with an effective date of May 15, 2011, when his hours had been reduced slightly. He is currently back to full-time hours.

The claimant did report wages during the weeks he filed for benefits, but the amounts do not appear to be correct based on the number of hours worked and his rate of pay.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 working on a reduced work-week basis for a period of time due to lack of work. He is eligible for those weeks in which he worked less than his usual full-time hours.

The issue of whether the claimant properly reported his wages for the weeks in question should be remanded for determination.

DECISION:

The representative's decision of June 14, 2011, reference 01, is reversed. The claimant is eligible for benefits, provided he is otherwise qualified.

The issue of whether the claimant properly reported his wages is remanded to Investigation and Recovery division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw