

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OLIVER S HOARD
Claimant

APPEAL NO. 07A-UI-01926-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINEGARD COMPANY
Employer

**OC: 01/07/07 R: 04
Claimant: Respondent (1)**

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 13, 2007, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on March 28, 2007. Claimant participated. Employer participated through Carl Ingwersen and was represented by Sandy Fitch of Unemployment Services LLC.

ISSUE:

The issue is whether claimant is able to and available for work.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant is employed as a full-time assembler and was not scheduled on two Fridays, January 12 and February 9, 2007, even though he asked his line leader Robin Graham and supervisor Deb Dowell for work whenever work is available. They told him no work was available these days although work was supposed to be available to any employee, as opposed to a contract worker, who may or may not have work depending on the preferences of employees. Graham and Dowell did not participate in the hearing. Ingwersen told claimant to see him if he is ever denied work on a Friday when he wants to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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".

Since claimant attempted to make himself available to work even though two separate supervisory personnel told claimant no work was available, partial benefits for the weeks ending January 13 and February 10, 2007 are allowed.

DECISION:

The February 13, 2007, reference 01, decision is affirmed. The claimant is able to work and available for work effective January 7, 2007. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw