

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY W GOODMAN
Claimant

APPEAL NO. 07A-UI-02926-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/03/06 R: 04
Claimant: Appellant (4)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Jerry Goodman, filed an appeal from a decision dated March 12, 2007, reference 02. The decision found him ineligible to receive unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 9, 2007. The claimant participated on his own behalf.

ISSUE:

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

FINDINGS OF FACT:

Jerry Goodman filed a claim for unemployment benefits with an effective date of December 3, 2006, and filed weekly claims since that time. The claimant had surgery which restricted his ability to work but was released by his doctor to return to work effective March 17, 2007.

Iowa Workforce Development has issued a decision, March 16, 2007, reference 03, which found the claimant able and available for work effective March 17, 2007.

REASONING AND CONCLUSIONS OF LAW:

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 able and available for work for the week ending March 10, 2007, because of surgery. He was released the next week and is able and available after that per the decision of March 16, 2007.

DECISION:

The representative's decision of March 12, 2007, reference 02, is modified in favor of the appellant. Jerry Goodman was not able and available for work the week ending March 10, 2007, but is eligible after that date.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw