

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COLBY R KARAIOS
Claimant

APPEAL NO. 09A-UI-16049-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**NPC INTERNATIONAL INC
PIZZA HUT**
Employer

**Original Claim: 08/23/09
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available
Section 96.6-2 – Timeliness of Appeal
Section 17A.12(3) – Default

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 25, 2009, reference 02, that held he was still employed as the same hours and wages on August 23, 2009, and that denied benefits. A telephone hearing was scheduled for December 1, 2009. The claimant did not participate. The employer did not participate.

ISSUES:

Whether the appeal is timely.

Whether the claimant was able and available for work.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: The claimant failed to respond to the hearing notice and provide a telephone number to be contacted for the hearing. The claimant is defaulted for his failure to appear.

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 administrative law judge concludes the claimant is defaulted for his failure to appear (respond to the hearing notice), and it establishes he was still employed at the same hours and wages and not eligible for benefits.

The claimant appealed the department decision but failed to appear for the hearing to contest the discharge. The claimant is defaulted pursuant to Iowa Code section 17A.12(3), and the department decision remains in force and effect.

DECISION:

The department decision dated September 25, 2009, reference 02, is affirmed. The claimant is still working the same hours and wages, and benefits are denied.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw