

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ROBERT C WILLIAMS
4920 NW 51ST ST
DES MOINES IA 50310

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-04949-AT
OC: 01-25-04 R: 02
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Robert C. Williams filed a timely appeal from an unemployment insurance decision dated April 28, 2004, reference 01, which denied benefits to him for the week ending April 3, 2004 upon a finding that he had indicated when filing his weekly claim for that week that he was not available for work. Due notice was issued for a telephone hearing to be held on May 21, 2004. The administrative law judge was unable to contact Mr. Williams at the number which he provided. This decision is based on information in his appeal letter.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Robert C. Williams filed his weekly claim for unemployment insurance benefits for the week ending April 3, 2004 on a cell phone. He inadvertently indicated in response to a question on the voice response unit that he was not available for work. He was, in fact, available.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant is eligible for unemployment insurance benefits for the week ending April 3, 2004. He is.

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 evidence establishes that Mr. Williams inadvertently indicated that he was not available for work when he, in fact, was available. Benefits should be allowed. The claimant is reminded, however, of the Agency's caution against filing weekly claims by cell phone. Experience has shown the Agency that errors occur more easily when weekly claims are filed in that fashion.

DECISION:

The unemployment insurance decision dated April 28, 2004, reference 01, is reversed. The claimant is eligible for unemployment insurance benefits for the week ending April 3, 2004.

tjc/b