

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D WARD
Claimant

APPEAL NO. 07A-UI-06149-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIVE STAR COOPERATIVE
Employer

**OC: 01-14-07 R: 02
Claimant: Appellant (1)**

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Michael D. Ward filed a timely appeal from an unemployment insurance decision dated June 18, 2007, reference 01, which held him ineligible to receive unemployment insurance benefits. Due notice was issued for a telephone hearing to be held July 3, 2007. Mr. Ward did not respond to the notice. The employer, Five Star Cooperative, provided the name and phone number of Randy Park. Mr. Park elected to rely upon the statements made at the time of the fact-finding interview and asked that the administrative law judge include in his decision a statement that work is still available for Mr. Ward if he will only show up.

ISSUE:

Is the claimant eligible to receive unemployment insurance benefits?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Michael D. Ward is an employee of Five Star Cooperative, at least in the employer's perspective. Mr. Ward is not reporting to work although work is available for him.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Ward is entitled to receive unemployment insurance benefits. He is not.

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".

Unemployment insurance benefits are available to those who are unemployed through no fault of their own. The evidence in this record establishes that Mr. Ward is unemployed because he continues to choose not to report to work. The evidence persuades the administrative law judge that Mr. Ward is unemployed by personal choice rather than through actions of the employer. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated June 18, 2007, reference 01, is affirmed. The claimant is ineligible for unemployment insurance benefits.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

da/pjs