

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOEL O PLAZA
Claimant

APPEAL NO. 09A-UI-01095-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 12-21-08 R: 02
Claimant: Appellant (2)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 21, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 10, 2009. The claimant did participate through the interpretation of Patricia Vargas. The employer did participate through Crystal McBride, .Personnel Supervisor.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was assigned to work at Helena Industries full time beginning January 8, 2008 through December 20, 2008 when he was laid off due to lack of work. The claimant was able to and available for work on December 20, 2008 through January 12, 2009 when he was called back to work. The claimant did not leave the state during that period of his layoff.

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 effective December 20, 2008.

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 laid off due to lack of work. He was in the state and available for additional work. Accordingly, benefits are allowed.

DECISION:

The January 21, 2009, reference 01, decision is reversed. The claimant is able to work and available for work effective December 20, 2008. Benefits are allowed.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs