

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CURTIS D MASER
Claimant

APPEAL NO. 12A-UI-00412-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LARSON MANUFACTURING COMPANY
OF SOUTH DAKOTA INC**
Employer

**OC: 12/18/11
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 9, 2012, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on February 14, 2012. Claimant participated personally. Employer participated by Dan Hemmen, Manufacturing Operations Manager and Jeff Miller, Production Supervisor.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was laid off from his second shift job for two weeks ending December 31, 2011. Claimant listed himself available for three of four days the first week and available for three of four days the second week. Claimant was asked if he wanted to work for two weeks on a different shift than in his contract of hire. Claimant declined the work because he was told that he could collect unemployment and his second shift work was not available.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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".

Inasmuch as the claimant was listed as available for the majority of the two weeks ending December 31, 2011 benefits shall be allowed. Employer failed to offer second shift work for the two weeks. Since claimant listed himself as available for three of four work days the two weeks ending December 31, 2011 benefits shall be allowed.

DECISION:

The decision of the representative dated January 9, 2012, reference 01, is reversed in favor of claimant. Claimant is eligible for benefits the two weeks ending December 31, 2011.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs