

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB D SEITZ
Claimant

APPEAL NO. 07A-UI-05035-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYER'S SERVICE BUREAU INC
Employer

**OC: 04/15/07 R: 04
Claimant: Respondent (4)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Employer's Service Bureau, Inc. filed an appeal from a representative's decision dated May 10, 2007, reference 01, which allowed benefits to Jacob Seitz but denied the employer relief from benefit charges. After due notice was issued, a hearing was held by telephone on June 4, 2007. Mr. Seitz participated personally. The employer participated by John Rausenberger, Vice President.

ISSUE:

At issue in this matter is whether Mr. Seitz is eligible to receive benefits on his claim filed effective April 15, 2007.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Seitz began working for Employer's Service Bureau, Inc. on November 7, 2006 and is still in the employment. He was hired to work full time as a laborer. He filed a claim for job insurance benefits effective April 15, 2007, because there were days he was sent home due to lack of work. He also missed time from work in order to work on private roofing projects. Mr. Seitz has not claimed weekly benefits since filing his claim.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be able to work and available for work. See Iowa Code section 96.4(3). Availability disqualifications are made on a week-by-week basis. See 871 IAC 24.22(3)d. The parties appear to be in disagreement as to when Mr. Seitz missed work due to lack of work and when he missed simply because he did not appear for available work. Inasmuch as Mr. Seitz has not claimed benefits for any week, the administrative law judge considers the issue moot. Even if the administrative law judge were to conclude that he was available for work during each week since filing his claim, he would not be eligible to receive benefits, because he has not called in on his claim on a weekly basis as required.

The record establishes that Mr. Seitz worked on a personal project during the two-week period ending May 16. He was definitely not available for work during this time. Therefore, a decision will be issued disqualifying him from receiving benefits effective May 6, 2007. Since he returned to work after completing his personal project, he is not available for work due to the fact that is employed.

Should he file an additional claim at some future point, Mr. Seitz will have to establish that he satisfies the availability requirements of the law at that time. Because he has not claimed any benefits to this point, there are currently no charges to the employer's account. That may change if he files a future claim.

DECISION:

The representative's decision dated May 10, 2007, reference 01, is hereby modified. Mr. Seitz is not entitled to job insurance benefits effective May 6, 2007, as he was no longer available for work within the meaning of the law. Benefits are denied until such time as he establishes that he is once again either totally or partially unemployed and available for work.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw