

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT E HARTLEY
Claimant

APPEAL NO. 12A-UI-07265-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 05/20/12
Claimant: Appellant (2)

Section 96.4(3) – Able and Available`

STATEMENT OF THE CASE:

The claimant, Robert Hartley, filed an appeal from a decision dated June 14, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 11, 2012. Prior to the hearing the employer, Labor Ready, submitted a written statement it did not wish to contest the claim.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Robert Hartley filed a claim for unemployment benefits with an effective date of May 20, 2012. The decision in this case found him not able and available for work and a hearing was scheduled on the merits. With the employer's statement it did not wish to contest the claim, a hearing is unnecessary.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes if the hearing did go forward, and considering the employer's statement it did not contest the claim, the employer would not present sufficient evidence to rebut Mr. Hartley's assertion he is able and available for work.

DECISION:

The representative's decision of June 14, 2012, reference 01, is reversed. Robert Hartley is able and available for work and eligible for unemployment benefits provided he is otherwise qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs