

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KENNETH JONES**  
Claimant

**APPEAL NO: 10A-UI-06335-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03-21-10**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 12, 2010, reference 05, decision that determined he was not able and available for work because he is a full-time student. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 16, 2010. The claimant participated in the hearing.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant started working part-time January 11, 2010, because he was going to school on Tuesdays and Thursdays. He is presently in summer school taking three class hours and two online hours this session.

**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.

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 is a part-time student and is taking three class hours of school with the other two hours being taken online whenever he is available. Accordingly, he is not a full-time student and is able and available for work. Therefore, benefits are allowed.

**DECISION:**

The April 12, 2010, reference 05, decision is reversed. The claimant is able to work and available for work effective March 21, 2010. Benefits are allowed.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs