

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIKE D WARREN
Claimant

APPEAL NO. 07A-UI-00579-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS BW PILCHER
THE PRINTING STORE
Employer

OC: 12/17/06 R: 04
Claimant: Respondent (4)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, The Printing Store, filed an appeal from a decision dated January 11, 2007, reference 01. The decision allowed benefits to the claimant, Mike Warren. After due notice was issued, a hearing was held by telephone conference call on January 31, 2007. The claimant participated on his own behalf. The employer participated by Business Manager Lynn Pilcher and Owner Thomas Pilcher.

ISSUE:

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

FINDINGS OF FACT:

Mike Warren was employed by The Printing Store beginning in August 2003 as a full-time pressman. On December 15, 2006, Owner Thomas Pilcher notified the claimant he was being laid off because there was not enough work, but he would be called when there was work.

On Friday, January 5, 2007, Mr. Pilcher called the claimant and said there was work to be done on Monday, January 8, 2007. The claimant agreed to come. However, he called Monday morning and told the secretary, Holly, he was not going to be in that day. Mr. Warren had become involved in a home improvement project for a friend and was still working on it Monday and Tuesday. The claimant finally arrived at work around 1:30 p.m. on January 9, 2007, by which time the work had been done.

Mike Warren received unemployment benefits for the week ending January 13, 2007, in the amount of \$322.00.

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 claimant did not make himself available for work with his regular employer for the week ending January 13, 2007, because of personal business.

DECISION:

The representative's decision of January 11, 2007, reference 01, is modified in favor of the appellant. Mike Warren is not eligible for benefits for the week ending January 13, 2007, because he was not available to his employer during that week when he was offered work. He is overpaid in the amount of \$322.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css