

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONNIE R JONES

Claimant

APPEAL NO: 13A-UI-12958-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHNNY BOY'S CAR WASH INC

Employer

OC: 11/03/13

Claimant: Respondent (5/R)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's November 18, 2013 determination (reference 01) that held the claimant eligible to receive benefits during a short-term layoff. The claimant did not respond to the hearing notice or participate in the hearing. Stephanie Khairallah, the president, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative concludes the claimant is not eligible to receive benefits for the week ending November 9, 2013.

ISSUE:

Was the claimant available for work when the employer's business was closed to the public?

FINDINGS OF FACT:

The claimant works for the employer, a full service car wash. In mid-October 2013 all employees learned the car wash would be shut down to the public from October 28 through November 8, 2013. Even though the car wash was not open to the public for two weeks, the claimant and other employees were still scheduled to work to do maintenance and cleanup work.

The claimant worked as scheduled on October 27. He did not report to work on October 28 and 29 as scheduled. The claimant did not return to work until November 8 or 9.

The claimant established a claim for benefits during the week of November 3, 2013. He filed a claim for benefits for the week ending November 9, but did not receive benefits for this week for other eligibility issues. He has filed weekly claims for the weeks ending November 23 through December 7, 2013.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The evidence establishes the claimant was not available for work the week ending November 9. Even though the employer had work available for him to do from

October 28 through November 9, the claimant did not report to work. Since the claimant was determined ineligible to receive benefits for the week ending November 9 for other reasons, this decision has no legal consequence.

The employer testified the claimant returned to work on November 8 or 9. He has filed weekly claims for the weeks ending November 23 through December 7, 2013. The issue of whether the claimant has earned wages these weeks will be remanded to the Claims Section to investigate and determine.

DECISION:

The representative's November 18, 2013 determination (reference 01) is modified but the modification has no legal consequence. The claimant was not available for work the week ending November 9. He was scheduled to work when the employer was closed to the public, but he did not work. Since the claimant was held ineligible to receive benefits for the week ending November for another issue, this decision has no legal consequence.

An issue of whether the claimant earned and properly reported wages for the weeks ending November 23 through December 7, 2013, is **Remanded** to the Claims Section to investigate and determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css