

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGORY R SCHOENBAUM
Claimant

APPEAL NO: 11A-UI-01851-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 05/16/10
Claimant: Appellant (1/R)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 15, 2011 determination (reference 03) that held him ineligible to receive benefits as of January 9, 2011, because he had unduly restricted his availability for work. The claimant participated in the hearing. Holly Carter, the employer's unemployment insurance specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of January 9, 2011.

ISSUE:

As of January 9, 2011, has the claimant restricted his availability to the extent he is not eligible to receive benefits?

FINDINGS OF FACT:

The claimant established his claim for benefits during the week of May 16, 2010. When the claimant started working for the employer's client in July 2010, he worked 40 hours a week. When the claimant decided to pursue a college degree, he asked the employer to reduce his hours to accommodate his school schedule.

When the claimant returned to school on January 10, 2011, he was only available to work 7:00 to 9:00 a.m. The client continued the claimant's assignment because they wanted him to work for them when the school year ended. The claimant worked 40 plus hours at the job assignment during spring break and anticipates he will be able to work more hours at the end of the school year.

The claimant reopened his claim during the week of January 9, 2011, and started filing for partial benefits.

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 law presumes a full-time student is not available for work because he

devotes the majority of his time and efforts to studies and has no reasonable expectation of securing employment except if the student is available to the same degree and same extent as he accrued his wage credits. 871 IAC 24.23(5).

While the claimant's decision to pursue his educational goal is commendable, he restricted his availability for work when he went back to school full time. Not only are the claimant's wage credits based on full-time employment, but since July 2010 he had been working full time for the employer. He created his partial unemployed status when he went back to school full time and was only available to work 10 hours a week instead of 40. As of January 9, 2011, the claimant has restricted his availability for work to the extent that he is not eligible to receive benefits.

An issue of overpayment is remanded to the Claims Section to determine.

DECISION:

The representative's February 15, 2011 determination (reference 03) is affirmed. As of January 9, 2011, the claimant is not eligible to receive benefits because attending school full time has restricted his availability for work to the extent he is only available to work 10 hours a week when prior to January 9, 2011 he was available to work 40 hours a week. An issue of overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs