

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY W STUFFLEBEAM
Claimant

APPEAL NO. 12A-UI-00317-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WATERSIDE INVESTMENT COMPANY LLC
Employer

OC: 04/10/11
Claimant: Respondent (1)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Waterside Investment Company, doing business as Holiday Shores Motel filed a timely appeal from an unemployment insurance decision dated December 19, 2011, reference 03, that allowed benefits to Terry W. Stufflebeam effective November 6, 2011 upon a finding that he was able to and available for work. After due notice was issued, a telephone hearing was held February 13, 2012 on a consolidated record with appeals 12A-UI-00315-AT and 12A-UI-00316-AT.

ISSUE:

Does the claimant meet the eligibility requirements of being able to work and available for work?

FINDINGS OF FACT:

The Findings of Fact contained in decision 12A-UI-00315-AT are incorporated herein by reference.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 issue addressed in this decision concerns basic eligibility requirements, not the consequences of the claimant's separation from employment. The claimant's sworn testimony indicates that he has been released to return to work and that he is seeking work in Arizona. There is contrary evidence indicating that Mr. Stufflebeam is also seeking self employment. These two goals are not necessarily mutually exclusive. One may, for example, perform odd jobs to supplement earnings while seeking traditional employment. If Waterside Investment Company has evidence that Mr. Stufflebeam is only seeking self employment or is engaged in ongoing, full-time self employment, it should present that evidence to the agency.

The administrative law judge notes in passing that while this decision is in favor of the claimant, it does not supersede decision 12A-UI-00316-AT which disqualifies the claimant for benefits based on his separation from employment in June 2011. As noted in that decision, an individual requalifies for benefits by earning ten times his or her weekly benefit amount in wages for insured work. Wages earned in self employment cannot be used to requalify for benefits.

DECISION:

The unemployment insurance decision dated December 19, 2011, reference 03, is affirmed. The claimant currently meets the eligibility requirements of Iowa Code § 96.4-3.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs