

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL D WEST
Claimant

APPEAL NO. 11A-UI-01694-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/24/10
Claimant: Appellant (4)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 4, 2011, reference 03, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled to be held on March 5, 2011. Claimant was not available when he was called for the hearing.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant is employed part-time. He was scheduled to work the time he was scheduled to report to the local office on February 7, 2011. He called the local office to advise of his situation and indicated that he would be out of town the following week but did return on Saturday, February 19, 2011. His base period earnings were for full-time work.

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".

Claimant is working part-time but was available for full-time work as he worked and earned his wage credits in his base period. He was out of town and unavailable during the week ending February 19, 2011. However, he has returned and has established his availability for work effective February 20, 2011. Benefits are allowed for the week ending February 12, 2011, provided claimant is otherwise eligible. Benefits are denied for the week ending February 19, 2011. Benefits shall be allowed effective February 20, 2011, provided claimant is otherwise eligible.

DECISION:

The decision of the representative dated February 4, 2011, reference 03, is modified. Benefits are allowed for the week ending February 12, 2011, provided claimant is otherwise eligible. Benefits are denied for the week ending February 19, 2011. Benefits shall be allowed effective February 20, 2011, provided claimant is otherwise eligible.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/kjw