

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

TOBY W WILLIAMSON  
3421 CYPRESS AVE  
CEDAR FALLS IA 50613-1184

CEDAR INDUSTRIES INC  
POX 55  
WATERLOO IA 50704-0055

Appeal Number: 06A-UI-07235-DWT  
OC: 03/05/06 R: 03  
Claimant: Respondent (1/R)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

Cedar Industries, Inc. (employer) appealed a representative's July 13, 2006 decision (reference 01) that concluded Toby W. Williamson (claimant) was eligible to receive unemployment insurance benefits as of June 18, 2006, when the claimant reopened his claim because he was still considered able to and available for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 2, 2006. The claimant responded to the hearing notice. The claimant's phone number was called, but no one answered the phone. A message was left for the claimant to contact the Appeals Section. The claimant did not contact the Appeals Section again on August 2, 2006. Steve Elliott, the president, appeared on the employer's behalf. Based on the evidence, the arguments of the employer and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

As of June 18, 2006, is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant started working for the employer in early 2006. The employer hired the claimant to weld on a part-time or on an as-needed basis. The claimant reopened his claim for unemployment insurance benefits during the week of June 18. During this week, the employer did not have any work for the claimant to do and did not contact him to work.

REASONING AND CONCLUSIONS OF LAW:

A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). Where a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced workweek, the claimant cannot be considered partially unemployed. 871 IAC 24.23(26).

Under either regulation, the claimant is eligible to receive unemployment insurance benefits. In this case, the claimant reopened his claim during the week of June 18, 2006, only after the employer did not have any work for him to do. The employer either laid him off from work when the employer did not have any work for him to do, or the employer reduced the claimant's workweek as of June 18, 2006. The facts establish the claimant is able to and available for work. Therefore, as of June 18, 2006, the claimant is eligible to receive benefits or partial benefits, provided he meets all other eligibility requirements.

An issue of whether the claimant was eligible to receive unemployment insurance benefits during the week ending March 11, 2006, when he went to Tennessee, is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's July 13, 2006 decision (reference 01) is affirmed. The claimant is able to and available for work as of June 18, 2006, provided he meets all other eligibility requirements. An issue of whether the claimant was able to and available for work for the week ending March 11, 2006, if he went to Tennessee, is remanded to the Claims Section to issue a written decision.

dlw/cs