

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANNY L MARKS

Claimant

APPEAL NO. 08A-UI-11506-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEREBRAL INFOTECH

Employer

**OC: 04/06/08 R: 03
Claimant: Appellant (2)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Danny Marks filed an appeal from a representative's decision dated December 1, 2008, reference 02, which denied benefits effective November 2, 2008 on a finding that he was still employed in his on-call job. After due notice was issued, a hearing was held by telephone on December 22, 2008. Mr. Marks participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Marks was available for work within the meaning of the law as of November 2, 2008.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Marks began working for Cerebral Infotech on May 5, 2008. He was hired to work full time on a software project for John Deere. The project was completed on July 31. Thereafter, he worked on an as-needed basis testing the software or addressing problems. He was, in essence, working on-call until October 3 when there was no further work available for him. The employer may have additional work for Mr. Marks in the near future but he has not been given a specific date on which work will again be available.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be available for work. Iowa Code section 96.4(3). Mr. Marks was hired to work full time, at least until he completed the software project for which he was hired. There was only limited work available after he completed the project on July 31. He has not performed any services for Cerebral Infotech since filing his additional claim for job insurance benefits effective November 2, 2008.

Mr. Marks is available to work the same number of hours he had been working until July 31. It is concluded, therefore, that he is available for work within the meaning of the law. Since he has been unemployed for more than four consecutive weeks, he is no longer temporarily

unemployed. See Iowa Code section 96.19(38)c. As such, he is required to actively and earnestly seek work by making two in-person job contacts each week.

DECISION:

The representative's decision dated December 1, 2008, reference 02, is hereby reversed. Mr. Marks satisfied the availability requirements of the law effective November 2, 2008. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css