

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

JOHN J MILEHAM  
314 N MAIN ST  
KANAWHA IA 50447

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-06732-H2T  
OC: 05-16-04 R: 02  
Claimant: Appellant (2)

**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, 4th 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 7, 2004, reference 01, decision that found him not able to and available for work. After due notice was issued, a hearing was held on August 19, 2004. The claimant did participate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant called in his weekly claim for the week ending May 22, 2004 and indicated that he was not able to and available for work for the week. The claimant was, in fact, both able to and available for work that week but was confused about which answer to provide due to confusion surrounding his request to perform his work searches by résumé. The claimant was able to

and available for work the week ending May 22, 2004 but wrongly indicated otherwise during his weekly call in.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective May 16, 2004.

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".

The claimant wrongly indicated that he was not able to and available for work for the week from May 16, 2004 through May 22, 2004. Since the claimant was able to and available for work that week, benefits are allowed.

#### DECISION:

The June 7, 2004, reference 01, decision is reversed. The claimant is able to work and available for work effective May 16, 2004. Benefits are allowed.

tkh\tjc