

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONALD GOBLE**  
Claimant

**APPEAL NO. 11A-UI-02150-E**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIVIC CENTER OF GREATER DES MOINES**  
Employer

**OC: 02-16-11**  
**Claimant: Appellant (2)**

Section 96.4-3 - Able and Available for Work

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 16, 2011, reference 04, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on March 16, 2011. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as an on-call stagehand for the Civic Center of Greater Des Moines. The employer contacts the union when it needs employees and the union calls the claimant. The claimant can work one day or more than one week. The last time he worked was March 13, 2011, and before that it was in November 2010. He does not hold himself available for this employer but is available for work with any employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is able and available for work.

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".

871 IAC 24.22(2)i(1) provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

i. On-call workers.

(1) Substitute workers (i.e., post office clerks, railroad extra board workers), who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

The claimant has worked for this employer on an on-call basis but is not limited to work with only this employer. Consequently, he meets the availability requirements of the law and benefits are allowed.

**DECISION:**

The February 16, 2011, reference 04, decision is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw