

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT S JOHNSON
Claimant

APPEAL NO. 12A-UI-01007-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL IOWA LAWN & HOME CARE INC
Employer

**OC: 10/23/11
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 20, 2012, reference 02, which held the claimant ineligible for unemployment insurance benefits from December 18, 2011 through January 7, 2012. After due notice, a telephone conference hearing was scheduled for and held on February 21, 2012. The employer participated by Marcia Hofsommer, office and personnel manager; Jason Hofsommer, general manager, and Jay Arends, general supervisor of operations. The claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Marcia Hofsommer; the testimony of Jay Arends; and Employer's Exhibits 1 through 2.

ISSUE:

Whether the claimant was able and available for work from December 18, 2011, through January 7, 2012.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a full service lawn care and commercial snow removal business. The claimant was hired as a temporary on-call employee for snow removal in March 2010. He was hired on March 22, 2011, to do full-time lawn service. He was temporarily laid off on October 28, 2011. All employees, including the claimant, signed a form called temporary layoff guidelines. (Exhibit 2) Employees were required to call on Monday of each week to check for work. All employees were to be available for snow removal work when called.

The claimant was called on December 22, 2011, for snow removal work. He did not answer his phone. Jay Arends went to the claimant's apartment on December 23, 2011, and judged him unfit for work, given his physical appearance and erratic behavior. The claimant did not call in for the week of December 31, 2011, and the week of January 1, 2012, through January 7, 2011.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. 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 such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

871 IAC 24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The evidence established that the claimant was not able and available for work for the three weeks from December 18, 2011, through January 7, 2012. The claimant was on a temporary layoff and had agreed to be available for snow removal work when called and to call the employer once a week to check for work. The claimant failed to meet these requirements during these three weeks. Since the claimant was not able and available for work, benefits are denied from December 18, 2011, through January 7, 2012.

DECISION:

The decision of the representative dated January 20, 2012, reference 02, is affirmed. The claimant is not eligible for benefits from December 18, 2011, through January 7, 2012.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw