

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

THOMAS N WISNESKI  
3600 – 30<sup>TH</sup> ST BLDG 5  
DES MOINES IA 50310

EXPRESS SERVICES INC  
PO BOX 720660  
OKLAHOMA CITY OK 73172

Appeal Number: 06A-UI-07227-DWT  
OC: 06/18/06 R: 02  
Claimant: Appellant (1)

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

Thomas N. Wisneski (claimant) appealed a representative's July 14, 2006 decision (reference 03) that concluded he was not eligible to receive benefits as of June 25, 2006 because he was working too many hours and had removed himself from the labor market. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 31, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. B. J. Butler appeared on Express Services, Inc. (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:

Is the claimant available to work as of June 25 after he started working for the employer again?

FINDINGS OF FACT:

The claimant registered to work on behalf of the employer in July 2005. On June 20, 2006, the claimant contacted the employer to report he was not available to work until June 26, 2006. The employer assigned the claimant to a job assignment on June 27, 2006. The claimant worked 35 hours during the week ending July 1, 2006.

The claimant filed a claim for the week ending July 1, 2006.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code section 96.4-3. The claimant informed the employer he was not available to work June 26. The employer assigned the claimant to a job that started June 27. The claimant worked 35 hours during the week ending July 1, 2006. Since the claimant was not available to work June 26 and then worked 35 hours the rest of the week, the claimant's availability is unduly limited because he is working to such a degree that removes the claimant from the labor market. 871 IAC 24.23(23). As of June 25, the claimant is not eligible to receive benefits and the claimant is not eligible to receive benefits for the week ending July 1, 2006.

DECISION:

The representative's July 14, 2006 decision (reference 03) is affirmed. The claimant is not eligible to receive unemployment insurance benefits as of June 25, 2006, because he unduly limited his availability because he worked to such a degree he has removed himself from the labor market. The claimant is not eligible to receive benefits for the week ending July 1, 2006.

dlw/cs