

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID B TESSIER**  
Claimant

**APPEAL NO: 09A-UI-08149-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/03/09  
Claimant: Appellant (2)**

Section 96.4-3 – Able to and Available for Work

**STATEMENT OF THE CASE:**

David B. Tessier (claimant) appealed a representative's June 1, 2009 decision (reference 01) that concluded he was not eligible to receive benefits May 9 through 30 because he was on vacation and not available for work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 23, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant on vacation May 9 through 30?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of May 3, 2009. The claimant had problems filing his claims on-line for the weeks ending May 9 and 14. The claimant and his family went on a vacation May 20 and returned on May 28. When the claimant tried to file an on-line weekly claim on May 28, he received a message that he was locked out and needed to go to his local Workforce office, which he did the next day. The claimant successfully filed a claim on-line the weekend of May 30, 2009.

**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 law presumes a claimant is not available for work when he is out of town for personal reasons for the major portion of the workweek and is not in the labor market. 871 IAC 24.23(25).

Although the claimant was out of town and on vacation May 20 through 28, he took the necessary steps for a prospective employer to contact him and was available for an immediate interview. The type of work the claimant applies for requires a person to undergo more than

one interview and is not the type of work where an employer wants a new hire to start the day after an initial interview. The claimant has overcome the presumption he was not available for work May 20 through 28. Therefore, he is eligible to receive benefits for the weeks ending May 23 and 30, if he has met all other eligibility requirements. The claimant was not on vacation May 9 through May 19. Therefore, he is also eligible to receive benefits for the weeks ending May 9 and 16 if he has met all other eligibility requirements.

The claimant noticed problems filing claims on-line at certain times. If there is a preferred time for claimants to file weekly claims, the claimant suggests that a Notice be placed on the Website informing claimants about the optimum time(s) to file weekly claims.

**DECISION:**

The representative's June 1, 2009 decision (reference 01) is reversed. The claimant was not on vacation May 9 through 19, 2009. The claimant was on vacation May 20 through 28, but he took the necessary steps to be available for work. Therefore, the claimant is eligible to receive benefits for the weeks ending May 9, 16, 23 and 30, if he has met all other eligibility requirements.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs