

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

JEFFREY W SMITH
2249 – 16TH ST NW
CEDAR RAPIDS IA 52405

COMPASS OF CEDAR RAPIDS LLC
C/O TALX – ADP
PO BOX 6501
DIAMOND BAR CA 91785

Appeal Number: 06A-UI-00242-DWT
OC: 07/17/05 R: 03
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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Previously Adjudicated

STATEMENT OF THE CASE:

Jeffrey W. Smith (claimant) appealed a representative's January 3, 2006 decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he was still working the same hours he had always worked for Compass of Cedar Rapids LLC (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 24, 2006. The claimant participated in the hearing with Randy Stewart, his union steward. Taya Roos appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible to receive benefits as of November 20, 2005?

Was the issue the January 3, 2006 decision addressed previously adjudicated?

FINDINGS OF FACT:

For about eight years the claimant has worked as a stagehand at entertainment events for the employer. When the employer needs stagehands, the employer contacts the union hall. The union then lets the claimant know about the work available. The claimant works on an on-call basis for the employer. At various times of the year, the employer does not have as many scheduled events so stagehands are needed not needed as much as other times of the year. In addition to working for the employer, the claimant also works for five other employers.

The claimant established a claim for unemployment insurance benefits during the week of July 17, 2005. The claimant established a claim because the employer did not request stagehands for a period of time. An August 17, 2005 representative's decision held the claimant was eligible to receive benefits based on his employment situation with the employer. The employer did not appeal the August 17 representative's decision.

The claimant reopened his claim for benefits during the week of November 20, 2005. The claimant's employment relationship with the employer was no different in November than it was in July 2005. When the claimant reopened his claim in mid-November, the employer did not have very many entertainment events scheduled.

The claimant daily contacts his union hall about a job and has never turned down a job assignment.

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 §96.4-3. The claimant demonstrated that each week he files a claim for benefits, he is able to and available for work.

The issue that was addressed in the representative's January 3, 2006 decision was previously adjudicated in an August 17, 2005 decision. The August 17, 2005 decision held the claimant eligible to receive benefits based on the same factual situation as in mid-November or when the claimant reopened his claim during the week of November 20. The employer did not appeal the August 18 decision. As a result, when the facts regarding the claimant's employment with the employer are the same, the representative's August 18, 2005 decision is the final decision. Iowa Code §96.6-2. This means the claimant remains eligible to receive unemployment insurance benefits as of November 20, 2005, provided he meets all other eligibility requirements.

DECISION:

The representative's January 3, 2006 decision (reference 03) is reversed. A representative's August 18, 2005 decision was the final decision in this matter. Since the claimant's employment relationship with the employer has not changed since mid-July 2005 when he established his claim, there is no legal authority to issue another decision on January 3, 2006, that is based on the same facts as in July or were considered in the August 17, 2005 decision. The claimant remains eligible to receive benefits as of November 20, 2005, provided he meets all other eligibility requirements.

dlw/kjf