

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
<b>KEVIN S STANFORD</b> Claimant  <b>EXHIBITS/DISPLAYS INC</b> Employer	<b>APPEAL NO. 07A-UI-06688-DWT</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b>   <b>OC: 07/30/06 R: 02</b> <b>Claimant: Appellant (2)</b>

Section 96.4-3 – Availability for Work

**STATEMENT OF THE CASE:**

Kevin S. Stanford (claimant) appealed a representative's July 6, 2007 decision (reference 06) that concluded he was not eligible to receive unemployment insurance benefits because he was not willing to work the hours Exhibits/Displays, Inc. (employer) had available for him to work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 24, 2007. The claimant participated in the hearing. Dan Lancial, the manager, 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 able to and available for work as of June 10, 2007?

**FINDINGS OF FACT:**

The employer hired the claimant to work as a laborer on April 3, 2007. The employer hired the claimant to work as needed. Initially, the claimant worked 50 to 60 hours a week in April and May. In April and May, the claimant had to attend some personal meetings that sometimes lasted two hours. These meetings did not, however, prevent the claimant from working more than 40 hours a week.

In early June, the employer talked to employees as they were setting up a tent. The employer told employees they needed to be more efficient and punctual. In early June, the claimant understood the employer did not have as much work for him and was going to be laid off from work indefinitely. Although the claimant was upset about being laid off, he worked nine hours the employer asked him to work during the week of June 10. When the employer asked the claimant to work the next week, the claimant worked 6.5 hours. The week of June 24, the claimant worked as many hours as the employer had work for him to do – 25 hours.

On July 7, the employer asked the claimant if he could work on July 9. The claimant indicated he could. The claimant forgot he had to go to court that day. The claimant did not contact to let the employer know he had a conflict on July 9. The claimant was not with the court proceeding

until 4:30 p.m. on July 9. Even though the claimant knew the employer left a message for him to call, the claimant did not call the employer that day or the next day. About a week later, the claimant and Lancial talked, but did not talk about any work.

#### **REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for unemployment insurance benefits, he must be able to and available for work. Iowa Code § 96.4-3.

In early June, the employer reduced the claimant's hours of work even though other employees worked full-time hours. The employer acknowledged talking to the claimant during the week of June 24 when the claimant worked 25 hours. The employer's failure to find out why the claimant had not worked as many hours as his coworkers in the previous two weeks does not make sense if the employer had work and the claimant was not showing up for work. If the employer had to contact the claimant to let him know when he was to work is a factor that supports the claimant's assertion the employer would call him when the employer had work for him to do. If the employer had problems contacting the claimant, it is not logical for the employer not to have found out the week of June 24 why the claimant was not working as he had been in April and May. If the employer had as many hours for the claimant to work as he had worked before, it does not make sense for the employer not have arrived at some solution in making sure the claimant worked. The employer's explanation as to what happened in June is not credible. The fact other employees worked 30 to 40 hours in June, does not mean the employer had more work for the claimant to do and the claimant failed to work. A preponderance of the credible evidence establishes that during the weeks ending June 16 through July 7, the claimant was able to and available for work full-time.

On July 9, when the claimant was unable to work for the employer, it is difficult to understand why he did not contact the employer that day or the next day. Even though the claimant was not available for one day, July 9, does not mean he was not able to and available to work the majority of the week. There is no evidence the employer had work for the claimant to do any time after July 9. The employer did not contact or talk to the claimant about working anytime after July 9. The facts establish that the claimant did not limit the hours he was willing to work. The claimant established he was able to and available for work. As of June 10, 2007, the claimant is eligible to receive benefits.

#### **DECISION:**

The representative's July 6, 2007 decision (reference 06) is reversed. The claimant established he was willing to work full time and worked as many hours as the employer had work for him to

do. The claimant did not limit his availability to work. Therefore, as of June 10, 2007, the claimant is eligible to receive unemployment insurance benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css