

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADALBERTO CASTREJON
Claimant

APPEAL NO: 12A-UI-01119-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANNA ENTERPRISES
Employer

OC: 02-13-11
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 25, 2012, reference 04, decision that allowed partial benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 2, 2012. The claimant participated in the hearing with Interpreter Ike Rocha. Bill Van Sloan, Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with Anna Enterprises Staffing Solutions from July 21, 2008 to March 6, 2012, at which time he accepted a full-time position with United Brick, one of the employer's clients that the claimant was assigned to work for on a semi-regular basis. The week ending December 18, 2011, the claimant worked 40 hours; the week ending December 24, 2011, the claimant worked 40 hours; the week ending December 31, 2011, the claimant did not work any hours; the week ending January 7, 2012, the claimant worked 31 hours; the week ending January 14, 2012, the claimant worked 44 hours; and the week ending January 21, 2012, the claimant worked 18 hours. He did not receive any hours the week ending January 28, 2012, through the week ending February 18, 2012. The week ending February 25, 2012, the claimant worked 31 hours; the week ending March 3, 2012, the claimant worked 44 hours; and the week ending March 10, 2012, the claimant worked 18 hours before being hired full-time by United Brick March 6, 2012. The claimant did contact the employer seeking other assignments during the weeks he did not work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work the weeks listed below until March 6, 2012, when he accepted a full-time job.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant reported his wages and did not receive benefits or received partial benefits the weeks ending December 24, 2011; January 7, 2012; January 14, 2012; January 21, 2012; February 18, 2012; February 25, 2012; March 3, 2012; and March 10, 2012. He did not report any wages and consequently received his full weekly benefit amount the weeks ending December 31, 2011; January 28, 2012; and February 4, 11 and 18, 2012. Accordingly, benefits are allowed for the weeks the claimant either did not work or earned reported wages of less than his weekly benefit amount.

DECISION:

The January 25, 2012, reference 04, decision is affirmed. The claimant is able to work and available for work the weeks listed above when he did not receive any reported wages and is not able and available for work the weeks listed above when he received reported wages exceeding his weekly benefit amount effective December 18, 2011. Partial or full benefits are allowed the weeks ending December 31, 2011; January 7, 2012; January 14, 2012; January 21, 2012; January 28, 2012; February 4, 2012; February 11, 2012; February 18, 2012; February 25, 2012; and March 10, 2012.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs