

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PHILLIP L COX**  
Claimant

**APPEAL NO. 08A-UI-00982-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES**  
Employer

**OC: 12/23/07 R: 04**  
**Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Temp Associates filed an appeal from a representative's decision dated January 22, 2008, reference 01, which held that Phillip Cox satisfied the availability requirements of the law effective December 23, 2007. After due notice was issued, a hearing was held by telephone on February 12, 2008. Mr. Cox participated personally. The employer participated by Jan Windsor, Office Manager. Exhibits One and Two were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Mr. Cox was available for work within the meaning of the law effective December 23, 2007.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Cox began working through Temp Associates on December 29, 2004 and was assigned to work full time for Winegard. He has always been off work the week of Christmas while working for Winegard. He was on layoff beginning December 23, 2007. He assumed Temp Associates was aware of the annual layoff and, therefore, did not contact the agency. Mr. Cox returned to work at Winegard on January 2, 2008.

Mr. Cox signed an "Availability Statement" on December 28, 2004. The statement indicated he had to sign Temp Associates' work available log within three working days of the end of an assignment or the temporary cessation of work. It further indicated that a failure to do so would constitute a voluntary quit. Mr. Cox received a written warning on April 5, 2007 because he failed to contact both Temp Associates and Winegard to report his absence of March 30. The warning advised that he needed to contact Temp Associates if work was called off for the day.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Cox filed a claim for job insurance benefits effective December 23, 2007 because he was temporarily laid off from Winegard. Because he was temporarily unemployed within the

meaning of Iowa Code section 96.19(38)c, he was not required to satisfy the availability requirements of Iowa Code section 96.4(3).

The basis of the employer's appeal is that Mr. Cox did not notify Temp Associates of his temporary layoff. However, given the fact that he had been laid off each week of Christmas throughout his employment, it was reasonable for him to assume that he did not need to give notice of the 2007 layoff. It is true that Mr. Cox had received a warning on April 5, 2007 because he failed to notify both Winegard and Temp Associates of his absence. However, the warning was in reference to unexcused absences created by the failure to give proper notice. The warning was not sufficient to put Mr. Cox on notice that he also had to report annual layoffs.

The "Availability Statement" signed by Mr. Cox on December 28, 2004 is not a basis on which to disqualify him from benefits. The statement requires him to come in and sign a work available log within three working days of the end of an assignment. The law only requires that he give some type of notice. Inasmuch as the "Availability Statement" does not represent an accurate statement of the law, it cannot form the basis of a disqualification from benefits.

After considering all of the evidence, the administrative law judge concludes that there is no basis on which to disqualify Mr. Cox from receiving job insurance benefits.

**DECISION:**

The representative's decision dated January 22, 2008, reference 01, is hereby affirmed. Mr. Cox satisfied the availability requirements of the law effective December 23, 2007. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css