

**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**

**JEFF VOSLER
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CARTER LAKE IA 51510-1031**

**COMMONWEALTH ELECTRIC CO OF
THE MIDWEST
PO BOX BU
DES MOINES IA 50306**

**Appeal Number: 06A-UI-07925-ET
OC: 03-19-06 R: 01
Claimant: Respondent (2R)**

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, 2nd 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 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated August 2, 2006, reference 01, which allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 22, 2006. The claimant did not respond to the hearing notice and did not participate in the hearing. Chris Gall, Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant did not have a change of hours or wages except following a fireworks accident July 4, 2006, after which he was medically unable to work for a period of time.

The claimant's employment was terminated July 31, 2006. That issue has not been adjudicated by the Claims Section to date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not able to work and available for work effective June 11, 2006.

Iowa Code section 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 was working the same hours for the same wages from June 11, 2006, until he was injured in a fireworks incident July 4, 2006. He returned to work after that situation but was terminated July 31, 2006. The claimant did not participate in the hearing and has not provided any evidence that his hours or wages were reduced. Accordingly, benefits are denied.

The issue of the claimant's separation from his employment with this employer has not been adjudicated at the Claims level. Consequently, that issue is remanded to the Claims Section for an initial determination and adjudication.

DECISION:

The August 2, 2006, reference 01, decision is reversed. The claimant is not able to work and available for work effective June 11, 2006. Benefits are denied. The claimant is overpaid benefits in the amount of \$1,517.00. The issue of the claimant's separation from his employment with this employer is remanded to the Claims Section for an initial determination and adjudication.

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