

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEAN A KADERA**  
Claimant

**APPEAL NO. 07A-UI-04959-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARRIOTT HOTEL SERVICES INC**  
Employer

**OC: 06/18/06 R: 03  
Claimant: Respondent (2)**

Section 96.4(3) – Able and Available  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Marriott Hotel Services, Inc. (Marriott) filed an appeal from a representative's decision dated May 3, 2007, reference 04, which allowed benefits to Dean Kadera effective April 1, 2007 on a finding that he was available for work. After due notice was issued, a hearing was held by telephone on May 31, 2007. The employer participated by Loretta Myers, Human Resources Director. Mr. Kadera did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Mr. Kadera was available for work within the meaning of the law effective April 1, 2007.

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Kadera has been employed by Marriott since July 31, 2006. He works full time as a cook. He usually works from 35 to 40 hours each week. He requested time off and was granted the week beginning April 1, 2007. Had Mr. Kadera not requested the time off, the employer would have provided him with full-time hours. Although work was slow, the employer would have found tasks to keep him busy for 35 to 40 hours the week of April 1. He returned to full-time work the following week.

Mr. Kadera filed an additional claim for job insurance benefits effective April 1, 2007. He was paid \$324.00 in job insurance benefits for the week ending April 7, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Kadera was off work effective April 1, 2007 by his own choice. In essence, he requested and was granted a one-week leave of absence. Therefore, he was voluntarily unemployed as of April 1, 2007. An individual who is on a requested leave of absence is not entitled to job insurance benefits during the period of the leave. See 871 IAC 24.22(2)j. For the above reasons, Mr. Kadera is not entitled to benefits on his additional claim filed effective April 1, 2007.

Mr. Kadera received \$324.00 in job insurance benefits for the week ending April 7, 2007. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated May 3, 2007, reference 04, is hereby reversed. Mr. Kadera is not eligible for benefits effective April 1, 2007 as he was on a requested leave of absence.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css