

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARYL D DREW**  
Claimant

**APPEAL NO. 08A-UI-06355-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BERTCH CABINET MFG INC**  
Employer

**OC: 12/23/07 R: 03**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able to and Available for Work

**STATEMENT OF THE CASE:**

Daryl D. Drew (claimant) appealed a representative's June 20, 2008 decision (reference 01) that concluded he was not eligible to receive benefits as of May 25, 2008, because he was working enough hours for Bertch Cabinet Mfg., Inc. (employer) that he was not considered unemployed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 28, 2008. The claimant participated in the hearing. Mitzi Tann, the human resource director, and Lee Homeister 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 for the weeks ending June 14 and 21, 2008?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of December 23, 2007. He reopened his claim during the week of June 8, 2008.

The claimant has worked full-time for the employer since March 17, 1996. A flood destroyed the claimant's home in Cedar Rapids in early June. As a result of the flooding in the Waterloo area, the employer did not have anyone work on June 11, 2008. The employer was open and employees were working June 10 and since June 12, 2008.

After the claimant's home was destroyed by flood waters, he asked for personal time off to take care of flood-related issues. The employer granted the claimant time off from June 10 through June 20, 2008. The claimant returned to work as scheduled on June 23, 2008.

The claimant filed claims for the weeks ending June 14 and 21, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4-3. A leave of absence negotiated with the consent of the employer and claimant is deemed a period of voluntary unemployment for a claimant. A claimant is considered ineligible for benefits for the period covering the leave of absence. 871 IAC 24.22(2)(j).

The facts establish the claimant requested a leave of absence for compelling personal reasons. For unemployment insurance purposes, he is not eligible to receive benefits for the weeks ending June 14 and 21, 2008, because he was not available to work for compelling personal reasons.

Since the claimant took the leave of absence as a result of a flood, he may be eligible for Disaster Unemployment Assistance. After the hearing, the administrative law judge contacted the Claims Section to check on the status of any DUA claim the claimant may have filed. The Claims Section did not have a record that the claimant filed a claim for DUA. The administrative law judge received information that a DUA informational packet was being sent to the claimant. If the claimant wants to pursue a DUA claim and has not already filed for DUA, he must apply by completing the information sent to him. If the claimant does not receive the information by the end of the week, he should contact his local Workforce office to file a DUA claim.

**DECISION:**

The representative's June 20, 2008 decision (reference 01) is affirmed. The claimant is not eligible to receive regular unemployment insurance benefits for the weeks ending June 14 and 21, 2008, because he was not available for work when he requested a leave of absence for personal reasons.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css