

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJAMIN S HOUTAKKER
Claimant

APPEAL NO. 10A-UI-11212-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DUBUQUE PLUMBING & HEATING CO
Employer

OC: 11/29/09
Claimant: Respondent (1)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

The employer appealed a representative's August 5, 2010 decision (reference 02) that held the claimant eligible to receive partial benefits as of July 18, 2010, because he was employed part-time or on an on-call basis. A telephone hearing was held on September 27, 2010. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the hearing. Based on the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible to receive benefits for the week ending July 24, when he was ill one day and unable to work when he could have worked?

FINDINGS OF FACT:

The claimant reopened his claim for benefits during the week of July 18, 2010. He worked Monday and Tuesday. The employer had work for the claimant to do on Wednesday, July 21, but the claimant was ill and unable to work this one day. The claimant's doctor statement verified he was ill and unable to work on July 21, 2010. The claimant was able to and available for work on July 22 and 23, but the employer did not have work for him to do because of the weather.

The claimant filed a claim for benefits for the week ending July 24, 2010. He reported the wages he earned on Monday and Tuesday. He received partial benefits for this week.

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. The employer's appeal asserted the claimant should not be eligible to receive benefits because if he had not been ill, he would have earned excessive wages. However, if the employer would have had work on Thursday and Friday, the claimant could have worked and earned excessive wages. The fact the claimant was unable to work one day does not make him ineligible to receive benefits for the week ending July 24, 2010.

Since the claimant has not filed any claims after July 24, if he again earns less than \$403.00 in a week, he must reopen his claim so the Department can determine if he is again eligible to receive benefits.

DECISION:

The representative's August 5, 2010 decision (reference 02) is affirmed. The claimant is eligible to receive partial benefits the week ending July 24, 2010.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw