

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN L KIGER
Claimant

APPEAL NO: 11A-UI-01109-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE STAFFING
Employer

OC: 12/26/10
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 28, 2011, reference 01, that held he was not eligible for benefits effective December 26, 2010, because he was still employed at the same job and hours. A telephone hearing was held on March 1, 2011. The claimant did not participate. Melissa Flippin, Accounting Manager, participated for the employer.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant worked for the employer beginning June 4, 2010 as a temp-to-hire general laborer at Siemens. Although there were some minor employment interruptions in December due to the holidays, the claimant worked the majority of each workweek.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 administrative law judge concludes that the claimant was still employed at the same job and hours, and is not eligible for benefits effective December 26, 2010.

Although the claimant did not work some days due to the December holidays, he was able to work the majority of the workweek. There is no evidence in the record claimant experienced any temporary lay-off due to a plant shut-down for any significant period.

DECISION:

The department decision dated January 28, 2011, reference 01, is affirmed. The claimant is not eligible for benefits effective December 26, 2010, as he is still employed at the same job.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs