

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

JOHNATHAN M BARBOUR
1223 – 56TH ST
DES MOINES IA 50311

REMEDY INTELLIGENT STAFFING INC
C/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

AMENDED

Appeal Number: 04A-UI-09093-HT
OC: 07/11/04 R: 02
Claimant: Respondent (4-R)

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, 4th 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

STATEMENT OF THE CASE:

The employer, Remedy Intelligent Staffing, Inc. (Remedy), filed an appeal from a decision dated August 17, 2004, reference 05. The decision allowed benefits to the claimant, Johnathan Barbour. After due notice was issued a hearing was held by telephone conference call on September 15, 2004. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Customer Service Supervisor Wendy Mesenbrink.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Johnathan Barbour filed a claim for unemployment benefits with an effective date of July 11, 2004. He indicated he had been laid off for lack of work. However, the week ending July 17 he worked 29.22 hours. He worked 10 hours the week ending July 24, and 32 hours the week ending July 31, 2004. For the week ending August 7, 2004, he worked 16 hours.

The claimant did not report any wages for the three weeks between July 18 and August 7, 2004. In addition, his employment with Remedy came to an end effective August 5, 2004, and this separation has not been adjudicated.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available.

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 not able and available for at least two weeks from July 11 through 17, and July 25 through 31, 2004. He was working sufficient hours during those weeks to be considered employed and not available in the labor market generally. He was working partial hours for the weeks from July 18 through 24, and August 1 through 7, 2004. However, he did not report any wages earned during that period, nor did he notify Iowa Workforce Development that he had been separated from Remedy.

DECISION:

The representative's decision of August 17, 2004, reference 05, is modified in favor of the appellant. Johnathan Barbour was not able and available for work for two weeks, July 11 through 17, and July 25 through 31, 2004. He is not eligible for benefits during those two weeks.

bgh/pjs/b