

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

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IOWA WORKFORCE
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Appeal Number: 05A-UI-04598-S2T
OC: 01/02/05 R: 03
Claimant: Appellant (1)

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:

Jose R. Santos (claimant) appealed a representative's April 21, 2005 decision (reference 06) that concluded he was not eligible to receive unemployment insurance benefits from March 27 to April 2, 2005, because he was out of town for the majority of the week. After hearing notices were mailed to the claimant's last-known addresses of record, a telephone hearing was held on May 24, 2005. The claimant participated personally through Rosie Paramo-Ricoy, Interpreter.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: Prior to the May 24, 2005, the claimant was asked why he reported

unable and/or unavailable for work during the benefit week ending April 2, 2005. The claimant responded that he was in Mexico collecting personal papers. The claimant's appeal letter states he was in Mexico from March 27 to April 2, 2005. At the appeal hearing the claimant testified he was in Mexico from the end of April to the beginning of May 2005. Then he testified he was in Mexico from the "end of April to April 4, 2005." (His answer after repeated questioning.)

The testimony of the claimant was conflicting. The administrative law judge finds the claimant was confused at the time of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is not.

871 IAC 24.23(25) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

When an employee is out of town, he is considered to be unavailable for work. The claimant was in Mexico from March 27 to April 2, 2005. He is considered to be unavailable for work from March 27 to April 2, 2005. The claimant is disqualified from receiving unemployment insurance benefits from March 27 to April 2, 2005, due to his unavailability for work.

DECISION:

The representative's April 21, 2005 decision (reference 06) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work.

bas/sc