

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH R COE
Claimant

APPEAL NO. 06A-UI-10704-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

YOHN CO
Employer

**OC: 11/13/05 R: 02
Claimant: Appellant (1)**

Section 96.4-3 – Availability for Work

STATEMENT OF THE CASE:

Kenneth R. Coe (claimant) appealed a representative's November 1, 2006 decision (reference 01) that concluded he was not eligible to receive benefits as of October 1, 2006, because he was working full time and not unemployed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2006. The claimant participated in the hearing. Ellen VanderVeer, the office manager, 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 unemployed or fully employed the week of October 1, 2006?

FINDINGS OF FACT:

The claimant started working for the employer in 1978. Initially, the claimant understood he would be laid off from work as of October 1, 2006. After the claimant explained his situation to a Department representative, the claimant believed he was eligible to receive benefits.

The employer called the claimant back to work on October 2. The claimant worked 42 to 45 hours the week of October 1. At a future date, the employer will layoff the claimant for awhile. As of the date of the hearing, the claimant was still working.

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 law presumes a claimant is not available for work if he works to such a degree that he is removed from the labor market. 871 IAC 24.23(23). In this case, the employer changed the layoff date so the claimant ended up working more than 40 hours the week of October 1, 2006. As a result, the claimant was not unemployed or even partially unemployed this week and is not eligible for benefits this week.

DECISION:

The representative's November 1, 2006 decision (reference 01) is affirmed. The claimant worked full time and was not unemployed or available to work for any other employer the week of October 1, 2006. Therefore, the claimant is not eligible to receive benefits for this week.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw