

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS M NORMAN
Claimant

APPEAL NO: 12A-UI-10972-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

DON'S PEST CONTROL INC
Employer

OC: 08/12/12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(3) – Full-time Student

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 5, 2012, reference 01, that held he was not eligible for benefits August 12, 2012, because he did not meet the availability requirements of the law. A telephone hearing was held on October 5, 2012. The claimant participated. The employer did not participate.

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 began seasonal work on April 6, 2012 as a pest control applicator. He understood that he would work until the end of August.

On August 6, the employer advised claimant it did not need him anymore. The claimant decided to enroll at ISU on August 20, where he is a full-time student taking 12 credit hours. He believes he would be able to work anywhere from 20 to 30 hours a week.

The department issued a decision dated September 13, 2012, reference 06, that denied claimant benefits because he voluntarily quit Doherty Staffing Solutions on August 1 to go back to school. The department record shows this employer paid claimant wages \$6,514 for the second quarter of 2012 while the employer in this case paid \$420 for the same period.

The employer did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 24.13(3)c provides:

(3) Fully deductible payments from benefits. The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

c. Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

The administrative law judge concludes that the claimant is not eligible for benefits effective August 12, 2012, because he does not meet the availability requirements of the law.

A full-time student who is not able and available to work full-time hours is not eligible for benefits. In addition, the claimant is disqualified for benefits by the department decision he voluntarily quit at Doherty Staffing on August 1, 2012.

DECISION:

The department decision dated September 5, 2012, reference 01, is affirmed. The claimant is not eligible for benefits effective August 12, 2012 due to full-time student status.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw