

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MANUEL RAYA**  
Claimant

**APPEAL NO. 13A-UI-05113-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BONNIE J WILSON**  
**CEDAR FALLS CONST CO INC**  
Employer

**OC: 12/02/12**  
**Claimant: Respondent (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated April 30, 2013, reference 05, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on June 5, 2013. Employer participated by Luke Budke, Vice President. Claimant failed to respond to the hearing notice and did not participate. Exhibit One was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was not available for work effective March 21, 2013 when employer called to offer him employment. Claimant did not return any calls. Claimant had started an auto parts business and is fully self-employed. Claimant's failure to participate at fact finding and the appeal hearing indicates he is not able and available for work.

**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".

Inasmuch as claimant has not shown that he is able and available for work benefits shall be withheld. Benefits are withheld until such time as the claimant established the availability for work. Benefits withheld effective March 24, 2013.

**DECISION:**

The decision of the representative dated April 30, 2013, reference 05, is reversed. Claimant is not eligible to receive unemployment insurance benefits, effective March 24, 2013, until claimant meets all other eligibility requirements.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

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