

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLEN P DEAN
Claimant

APPEAL NO. 11A-UI-07002-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING
Employer

**OC: 11/07/10
Claimant: Appellant (4)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Allen Dean filed an appeal from a representative's decision dated May 24, 2011, reference 03, which denied benefits on a finding that he did not satisfy the availability requirements of the law. After due notice was issued, a hearing was held by telephone on June 21, 2011. Mr. Dean participated personally. The employer participated by Kayla Neuhalfen, Human Resources Assistant. Exhibit One was admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Dean has satisfied the availability requirements of the law since filing his additional claim for benefits effective April 17, 2011.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Dean began working through Aventure Staffing on March 15, 2011. He indicated on his application that he was only interested in part-time work. He began receiving retirement benefits from the Social Security Administration in March of 2011 and knew there was a limit as to how much he could earn without it affecting his monthly retirement benefits. Therefore, he was only seeking part-time work. All of his base period wage credits were earned in full-time work with Smith and Jones, Inc.

After the representative's decision was issued disqualifying Mr. Dean because he was not considered available for work, he contacted Aventure Staffing on June 1, 2011 and indicated he would now accept full-time work. He interviewed for a full-time landscaping position through Aventure Staffing on June 6 but was not selected.

REASONING AND CONCLUSIONS OF LAW:

Mr. Dean filed an additional claim for job insurance benefits effective April 17, 2011. In order to receive benefits, an individual must be considered available for work. Iowa Code § 96.4(3). At the time he filed, Mr. Dean was only seeking part-time work so that his earnings would not have a negative impact on his retirement benefits. Where an individual limits his availability because

he does not want to earn enough wages to adversely affect his Social Security retirement benefits, he is not considered available for work. 871 IAC 24.23(22). For this reason, Mr. Dean was not available for work within the meaning of the law effective April 17, 2011.

Mr. Dean has now expanded his availability to include full-time work. He notified Aventure Staffing of this fact on June 1, 2011. It is concluded, therefore, that he satisfied the availability requirements as of the Sunday of the week in which he expanded his availability, May 29, 2011. He is cautioned that he may risk disqualification in the future if he declines full-time, suitable work without good cause or if he discourages full-time job offers by saying he only wants part-time work. The evidence is conflicting as to whether he discouraged placement in the landscaping job he interviewed for on June 6, 2011. Any doubt on the issue is resolved in Mr. Dean's favor.

DECISION:

The representative's decision dated May 24, 2011, reference 03, is hereby modified. Mr. Dean did not satisfy the availability requirements of the law effective April 17, 2011 as he had limited his availability. Benefits are allowed effective May 29, 2011, provided he is otherwise eligible, as he has now expanded his availability.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs