

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CURTIS L JENSEN**  
Claimant

**BLACKHAWK ENGINEERING INC**  
Employer

**APPEAL NO. 14A-UI-09796-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/17/14**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated September 8, 2014, reference 01, which held claimant to be working enough hours to be considered employed, and therefore denied benefits. After due notice, a hearing was scheduled for and held on October 9, 2014. Claimant participated personally. Employer participated by Rebecca Nelson.

**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: Both claimant and employer waived time for notice on the issue of whether claimant was able and available for work. Employer notified claimant and all other employees of a temporary shutdown of the plant between the dates of August 3, 2014 and August 16, 2014. Employer also gave the information to claimant such that he could file for temporary unemployment benefits.

Claimant had filed for benefits according to the directions given from employer. As claimant was to remain employed by employer, he went on a short vacation to Florida during this time. The employer did not notify IWD that any portion of this time off was to be covered by vacation pay. Claimant did remain able and available for work throughout the time of the shutdown.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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's filing for temporary unemployment was exclusively as a result of employer's shutdown, claimant remained able and available for work throughout the shutdown time period. Claimant shall be deemed to be eligible for UI benefits between the dates of August 3, 2014 and August 16, 2014.

**DECISION:**

The decision of the representative dated September 8, 2014, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, between the dates of August 3, 2014 and August 16, 2014, provided claimant meets all other eligibility requirements.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

bab/pjs