

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

NELSON ALVAREZ
1008 S PROSPECT DR #84
TAMA IA 52339

BELLE PLAINE NURSERY INC
S 4TH AVE
PO BOX 137
BELLE PLAINE IA 52208-0130

Appeal Number: 05A-UI-12165-CT
OC: 11/06/05 R: 02
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Nelson Alvarez filed an appeal from a representative's decision dated December 2, 2005, reference 02, which denied benefits effective November 6, 2005 on a finding that he was not available for work. Due notice was issued scheduling the matter for a telephone hearing on December 15, 2005. Mr. Alvarez and the employer responded to the notice of hearing. However, for reasons outlined herein, no hearing was held.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Alvarez filed a claim for job insurance benefits effective November 6, 2005. However, he

resumed work activity with Belle Plaine Nursery and did not file weekly claims for job insurance benefits. Mr. Alvarez continued to work full time until laid off on December 1, 2005. He filed an additional claim for benefits effective November 27, 2005 and reported \$304.00 in wages for the week ending December 3, 2005. His weekly job insurance benefit amount is \$212.00.

The employer has no protest to Mr. Alvarez' entitlement to job insurance benefits effective December 1, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Alvarez has satisfied the availability requirements of the law at any point since filing his claim effective November 6, 2005. He was not eligible to receive benefits when he first filed his claim because he returned to full-time employment. He is eligible to receive benefits on his additional claim filed effective November 27, 2005 as he has now been laid off due to lack of work. Because Mr. Alvarez did not claim benefits before filing the additional claim and because the employer does not protest his entitlement as of December 1, a hearing was deemed unnecessary.

Mr. Alvarez is not entitled to benefits for the week ending December 3, 2005 because he earned more than his weekly benefit amount plus \$15.00. He is, however, entitled to receive benefits beginning with the week ending December 10, 2005.

DECISION:

The representative's decision date December 2, 2005, reference 02, is hereby modified. Mr. Alvarez is allowed job insurance benefits effective November 27, 2005, provided he satisfies all other conditions of eligibility.

cfc/kjf