

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSY L WINDERS
Claimant

APPEAL NO. 08A-UI-11472-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STENBERG CONCRETE CONST INC
Employer

**OC: 12/23/08 R: 02
Claimant: Appellant (2)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Jessy Winders, filed an appeal from a decision dated December 1, 2008, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 22, 2008. The claimant participated on his own behalf. The employer, Stenberg Concrete Construction, Inc, (Stenberg), did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Jessy Winders began working for Stenberg Concrete in 2004 as a full-time concrete finisher. He is laid off during the winter months and is notified by the employer by a letter he then brings to Iowa Workforce Development. Mr. Winders last worked early in the week ending December 13, 2008. After one day of work he was given his lay off notice which he then brought to a representative at his local Workforce Center. The additional claim was effective December 7, 2008, and he has not worked since filing the additional claim.

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".

The claimant is laid off for lack of work during the winter months. He is able and available for work in the labor market and also to his regular employer.

DECISION:

The representative's decision of December 1, 2008, reference 03, is reversed. Jessy Winders is able and available for work and eligible for benefits, provided he is otherwise eligible and qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css