

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KURT GUNTHER
Claimant

APPEAL NO: 12A-UI-10397-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/01/12

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kurt Gunther (claimant) appealed a representative's August 20, 2012 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits for the benefit week ending August 18, 2012 because of a conclusion that he was on vacation and not available for work that week. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on October 2, 2012. Prior to the hearing being held, the administrative law judge determined that no hearing was necessary and that a decision could be made on the record. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant established an unemployment insurance benefit year effective July 1, 2012. On August 3 the Agency sent him a notice to report to his local Agency office in Cedar Rapids for a Re-employment and Eligibility Assessment on August 14, 2012 at 9:45 a.m., a Tuesday. The claimant had a previously scheduled appointment in Des Moines on that Tuesday morning, so he contacted his local office and arranged to reschedule the Assessment to August 10. The representative who assisted him was of the understanding that the claimant was unavailable the entire week of August 13 through August 17. However, the only day the claimant was unavailable was the Tuesday, August 14. He did make two job contacts during the week ending August 18, and would have been available for work other than on the Tuesday of the week.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively

seeking work. Iowa Code § 96.4-3. A person who is out of town for personal reasons for the major portion of the workweek is considered to be unavailable for work. 871 IAC 24.23(25). However, “generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.” 871 IAC 24.22(2)h. Here, the claimant was available for work the major portion of the week ending August 18, 2012. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative’s August 20, 2012 decision (reference 01) is reversed. The claimant is able to work and available for work the week ending August 18, 2012. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs