

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES W PEOPLES

Claimant

APPEAL NO. 13A-UI-01024-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA WESTERN COMMUNITY

Employer

OC: 06/24/12

Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, James Peoples, filed an appeal from a decision dated January 15, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 27, 2013. The claimant participated on his own behalf. The employer, Iowa Western Community (IWC) participated by Human Resources Director Nancy Schrage.

ISSUE:

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

FINDINGS OF FACT:

James Peoples began employment with IWC on August 22, 2011, as a part-time adjunct professor. He filed a claim for unemployment benefits with an effective date of June 24, 2012, and filed an additional claim effective December 9, 2012. As of the second date he was in between successive academic terms and had a contract for the spring 2013 semester.

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".

Iowa Code section 96.4-5-a provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.19, subsection 18, are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

Under the provisions of the above Code section, the claimant is not eligible for benefits beginning December 9, 2012. He is employed in an instructional capacity and had reasonable assurance of continued employment in the successive academic term.

DECISION:

The representative's decision of January 15, 2013, reference 01, is affirmed. James Peoples is ineligible for unemployment benefits effective December 9, 2012.

Bonny G. Hendricksmeyer
Administrative Law Judge

Decision Dated and Mailed

bgh/css