

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON C HOFMEYER
Claimant

APPEAL NO. 10A-EUCU-00508-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BECK EXCAVATING INC
Employer

OC: 10/04/09
Claimant: Respondent (4)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Beck Excavating (Beck), filed an appeal from a decision dated June 1, 2010, reference 02. The decision allowed benefits to the claimant, Jason Hofmeyer. After due notice was issued a hearing was held by telephone conference call on July 27, 2010. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by President Kenny Beck.

ISSUE:

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

FINDINGS OF FACT:

Jason Hofmeyer was employed by Beck Excavating beginning May 3, 2010, as a full-time truck driver. He filed a claim for extended benefits effective January 24, 2010, and reopened the claim effective January 31, 2010.

He reported wages for the week ending May 8, 2010, because he worked that week. The next week ending May 15, 2010, he reported no wages as he did not work that week due to rain. He worked full time the next three weeks but did not file a claim during that time. His employment ended June 7, 2010, and that has been adjudicated in another decision.

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 was not available for work the week ending May 8, 2010, because he was working full time. He was available for work the next week but was on a temporary layoff due to bad weather. For the weeks from May 16 through June 5, 2010, he is not eligible because he was working full time during that period.

DECISION:

The representative's decision of June 1, 2010, reference 02, is modified in favor of the appellant. Jason Hofmeyer is eligible for benefits for the one-week period ending May 15, 2010. He is not eligible for the week ending May 8, 2010, and the period from May 16 through June 5, 2010.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs