

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JIMAINÉ COOPER
Claimant

APPEAL NO: 09A-UI-08312-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS
Employer

OC: 04-05-09
Claimant: Appellant (2)

Section 96.4-3 – Able and Available
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 13, 2009, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 25, 2009. The claimant participated in the hearing. Stephanie Matteson, Account Manager, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence

ISSUE:

The issue is whether the claimant's appeal is timely and whether he is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on May 13, 2009. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by May 26, 2009. The claimant testified he did not receive the decision. Because the claimant did not receive the decision the administrative law judge must conclude the claimant's appeal dated June 9, 2009, is timely.

The claimant's last assignment was at Heinz as a packager working a sporadic schedule dependent on when he called in for work. He had two cars until sometime in April 2009 and now does not have his own transportation. He relies on his sister or a friend who is also sometimes assigned to Heinz for a ride. Depending on when he is scheduled to work the bus goes by Heinz which is the employer's biggest client.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work

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".

While the claimant does not have his own transportation he can depend on rides from his sister, who lives down the street and who is not employed, and a friend who also works at Heinz on occasion. Additionally, the bus goes by Heinz and the claimant can use that depending on his schedule if he is reassigned to Heinz. He can rely on his sister or the bus if he is assigned to another position or finds work on his own at another location. Accordingly, the administrative law judge must conclude the claimant is able and available for work and benefits must be allowed.

DECISION:

The May 13, 2009, reference 04, decision is reversed. The claimant is able to work and available for work effective April 19, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css