

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**HUSHAM A MUTWALI
2140 DRAKE PARK
DES MOINES IA 50311**

**CENTRAL IOWA HOSPITAL CORP
c/o HUMAN RESOURCES
1313 HIGH ST STE 111
DES MOINES IA 50309-3119**

**Appeal Number: 04A-UI-05626-AT
OC: 04-25-04 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Husham A. Mutwali filed a timely appeal from an unemployment insurance decision dated May 13, 2004, reference 02, which denied benefits to him effective April 25, 2004. After due notice was issued, a telephone hearing was held June 8, 2004 with Mr. Mutwali participating. Human Resources Business Partner Karen Pierick participated for the employer, Central Iowa Hospital Corporation. This matter is considered on a consolidated record with 04A-UI-05625-AT.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Husham A. Mutwali submitted a letter of resignation to Central Iowa Hospital Corporation on April 23, 2004 to be effective May 6, 2004. The employer immediately accepted the resignation. Although it did not require Mr. Mutwali to perform any services thereafter, it continued to pay him his regular salary through May 6, 2004. The unemployment insurance consequences of the separation are addressed in the companion decision.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether Mr. Mutwali is eligible for unemployment insurance benefits from April 23 through May 6, 2004. He is not because he does not meet the definition of an unemployed individual.

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 evidence in this record establishes that although Mr. Mutwali was not required to perform services after submitting his letter of resignation, the employer continued to pay his regular salary through May 6, 2004, the date of his intended resignation. Under these circumstances, he does not meet the definition of an unemployed individual. Benefits are withheld.

DECISION:

The unemployment insurance decision dated May 13, 2004, reference 02, is affirmed. Benefits are withheld from the original date of Mr. Mutwali's claim, April 25, 2004 through May 6, 2004. His eligibility for benefits thereafter is addressed in the administrative law judge's decision 04A-UI-05625-AT.

tjc/b