

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA R SWANSON**  
Claimant

**APPEAL NO. 13A-UI-01065-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EDGEHILL APARTMENTS LLC  
CLARION HOTEL**  
Employer

**OC: 12/30/12**  
**Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The employer, Edgehill Apartments LLC (Edgehill), filed an appeal from a decision dated January 24, 2013, reference 01. The decision allowed benefits to the claimant, Joshua Swanson. After due notice was issued, a hearing was held by telephone conference call on February 28, 2013. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Human Resources Director Laura Webb.

**ISSUE:**

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

**FINDINGS OF FACT:**

Joshua Swanson began employment with Edgehill July 28, 2011, as a full-time maintenance person. He was suspended on November 10, 2012, because he had been accused of sexual assault. The employer told him he was on unpaid suspension pending the outcome of a criminal investigation by the Davenport, Iowa, police department. No charges were filed and he was returned to work on February 8, 2013.

**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".

There is no evidence in the record to establish the claimant was not ready, willing and able to return to work anytime the employer lifted the suspension. He is eligible for unemployment benefits.

**DECISION:**

The representative's decision of January 24, 2013, reference 01, is affirmed. Joshua Swanson is able and available for work and eligible for unemployment benefits.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/tll