

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

CHRISTOPHER J KADUCE
3020 ENGLISH GLEN CT #1
MARION IA 52302

FRANK N MAGID ASSOCIATES INC
1 RESEARCH CENTER
MARION IA 52302-5868

Appeal Number: 05A-UI-02203-CT
OC: 01/02/05 R: 03
Claimant: Appellant (4)

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) – Able and Available

STATEMENT OF THE CASE:

Christopher Kaduce filed an appeal from a representative's decision dated February 11, 2005, reference 01, which denied benefits effective January 2, 2005 on a finding that he was not available for work. Due notice was issued scheduling the matter for a telephone hearing to be held on March 21, 2005. Both parties responded to the notice of hearing. However, based on information submitted prior to the hearing, a hearing was deemed unnecessary. Both parties agreed to have a decision made based on the record.

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: Mr. Kaduce filed a claim for job insurance benefits effective January 2, 2005. He filed in anticipation of his January 31, 2005 separation from Frank N. Magid Associates, Inc. He remained in the employment until January 31 as expected. Mr. Kaduce filed an additional claim for benefits effective January 30, 2005. He did not claim job insurance benefits during the interim between January 2 and January 30. He first claimed benefits the week ending February 5, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Kaduce satisfies the availability requirements of Iowa Code section 96.4(3). When he filed his claim effective January 2, 2005, he was still working full time. Therefore, he was not in the labor market and was not available to accept other work. Accordingly, he was not entitled to benefits as of January 2. See 871 IAC 24.23(23). Mr. Kaduce became separated from the employment on January 31 and filed an additional claim effective January 30. Because he was no longer working at that point, he was in the labor market and able to accept other work. Based on the foregoing, the administrative law judge concludes that Mr. Kaduce satisfied the availability requirements of the law effective January 30, 2005.

DECISION:

The representative's decision dated February 11, 2005, reference 01, is hereby modified. Mr. Kaduce is denied benefits from January 2 through January 29, 2005 as he was not available for work. Benefits are allowed effective January 30, 2005, provided he satisfies all other conditions of eligibility.

cfc/tjc