

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM E KING
Claimant

APPEAL NO. 10A-UI-16220-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLACK HAWK ROOF COMPANY INC
Employer

OC: 11/01/09
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 17, 2010, reference 01, which held claimant able and available for work. After due notice, a telephone conference hearing was scheduled for and held on January 12, 2010. Claimant participated personally. Employer participated by Brent Neumann, Office Manager.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was laid off due to lack of work October 20, 2010 for about two weeks. Claimant was able and available for work during the layoff. Claimant was recalled to work and continued to work until a layoff in December.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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".

Inasmuch as the layoff was initiated by employer and claimant was able and available for work claimant has established the ability to work. Benefits shall be allowed effective October 20, 2010.

DECISION:

The decision of the representative dated November 17, 2010, reference 01 is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective October 20, 2010, provided claimant meets all other eligibility requirements.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs