

**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**

**JASON JELLISON
2943 BALKE
DUBUQUE IA 52001**

**QUEBECOR WORLD DUBUQUE INC
c/o EMPLOYERS UNITY INC
PO BOX 749
ARVADA CO 80006-9000**

**Appeal Number: 04A-UI-02211-ET
OC 03-02-03 R 04
Claimant: Appellant (2)**

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, 2nd 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 for Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated February 19, 2004, reference 03, which denied benefits for the three weeks ending February 14, 2004. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 18, 2004. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is under a doctor's care for an anxiety disorder. His doctor instructed him not to return to work with Quebecor for a period of time but stated he could continue working for the Five Flags Civic Center because he had held that job longer and was not experiencing anxiety while performing work for that employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 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 apparently could not perform work for Quebecor because of his anxiety, the evidence does not establish he was unable to perform other work. Accordingly, he is considered able and available and benefits are allowed.

DECISION:

The February 19, 2004, reference 03, decision is reversed. The claimant is able to work and available for work effective January 18, 2004. Benefits are allowed provided the claimant is otherwise eligible.

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