

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOE A HUNT JR
Claimant

APPEAL NO. 11A-UI-07153-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURLINGTON COAT FACTORY OF IOWA
Employer

OC: 05/02/10
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 27, 2011, reference 01, which held claimant was not able and available for work. After due notice, a telephone conference hearing was scheduled for June 22, 2011. Claimant and Employer failed to respond to the hearing notice and did not participate.

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 is employed part-time for the employer.

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".

The claimant has the burden of proving he is able and available for work. The only information in this file is that claimant is employed part-time. Without more there is no way to determine if

claimant is able and available for work and if he is partially unemployed. Benefits are withheld effective April 24, 2011.

DECISION:

The decision of the representative dated May 27, 2011, reference 01, is affirmed. Benefits are withheld effective April 24, 2011.

Ron Pohlman
Administrative Law Judge

Decision Dated and Mailed

rrp/pjs