

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT M WEINER
Claimant

APPEAL NO. 11A-UI-08370-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/09/11
Claimant: Appellant (2)**

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Robert M. Weiner filed a timely appeal from an unemployment insurance decision dated June 21, 2011, reference 01, that issued a warning to him upon a finding that he had made no work search for the week ending June 18, 2011. In the appeal letter, Mr. Weiner stated that he was not available for work for that week. Due notice was issued for a hearing to be held July 19, 2011. At the claimant's request, it was held instead on June 29, 2011, with Mr. Weiner participating. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

Is the claimant eligible for unemployment insurance benefits for the week ending June 18, 2011?

FINDINGS OF FACT:

Robert M. Weiner of Ankeny, Iowa, was away from home during the week ending June 18, 2011. He made no work search. He would not have been available to accept employment had any been offered to him for that week. Although he received unemployment insurance benefits for that week, he had not intended to request them.

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".

An individual may receive unemployment insurance benefits for a given week only if the individual is available for work. An individual away from his local labor market area for the majority of a work week is not considered to be available for work or eligible for unemployment insurance benefits for that week.

Based upon the claimant's testimony, the administrative law judge concludes that Mr. Weiner is not eligible for unemployment insurance benefits for the week ending June 18, 2011.

DECISION:

The unemployment insurance decision dated June 21, 2011, reference 01, is reversed. The claimant is not entitled to receive unemployment insurance benefits for the week ending June 18, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw