

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TONY R WELCH**  
Claimant

**APPEAL NO. 09A-UI-19233-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHENHALL'S STAFFING SERVICES INC**  
Employer

**OC: 10-11-09**  
**Claimant: Respondent (2)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 18, 2009, reference 04 amending reference 03, decision that denied benefits for the one-week period from November 1, 2009 through November 7, 2009. After due notice was issued, a hearing was held on February 4, 2010. The claimant did not participate. The employer did participate through Mike Gowdy.

**ISSUE:**

Was the claimant able to and available for work from November 1, 2009 through November 7, 2009 and did he refuse a suitable offer of work.

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was offered and accepted an assignment at FCA to begin on November 2. He was unable to start the assignment on that day as his car was vandalized the night before. He was discharged by the employer on November 2, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work from November 1, 2009 through November 7, 2009.

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".

The claimant was only going to miss one day of work on November 2 to get his car repaired. Under such circumstances he is considered able to and available for work during the majority of the week. He did not refuse any actual offer. He was offered and accepted the position at FCA but was discharged by the employer before he could begin. There is no evidence of any other offers being given to him. Accordingly, benefits are allowed.

**DECISION:**

The December 18, 2009, reference 04, decision is reversed. The claimant is able to work and available for work effective November 1, 2009. Benefits are allowed.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/css