

**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**

**LEONARD A JOHNSON
PO BOX 214
IOWA CITY IA 52244**

**WESTSTAFF USA INC
C/o EMPLOYMENT TAX CONSULTING
440 W COLORADO ST #204
GLENDALE CA 91204**

**Appeal Number: 04A-UI-03228-B4T
OC: 02/15/04 R: 03
Claimant: Appellant (1)**

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, 4th 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 – Whether claimant is able and available for work

STATEMENT OF THE CASE:

Leonard A. Johnson appealed from an unemployment insurance decision dated March 17, 2004, reference 01, that held, in effect, the claimant was not eligible to receive unemployment insurance benefits from February 15, 2004 through February 21, 2004 because the records indicated that the claimant was ill the major portion of the workweek and therefore did not meet the availability requirements of the law.

A consolidated telephone conference hearing was scheduled and held on April 16, 2004. Leonard A. Johnson participated. Amie Lang, Placement Consultant participated on behalf of West Staff USA Inc.

Official notice was taken of the unemployment insurance decision bearing reference 01 together with the pages attached thereto (3 pages in all). Official notice was also taken of the unemployment insurance decision bearing reference 02 together with the pages attached thereto (4 pages in all).

FINDINGS OF FACT:

The administrative law judge, having examined the entire record in this matter, finds that: Leonard A. Johnson was hired as a temporary employee with WestStaff USA, Inc. on or about January 10, 2001. The claimant's last job assignment was with University of Iowa surplus store. The claimant was informed on February 17, 2004 by Joe Hanagan, Manager of the surplus store that he was being let go along with three other individuals. The claimant left and went home and was contacted by Jennifer Mayer, Manager, at WestStaff USA, Inc. The claimant was requested to report the next day to meet with Joe Hanagan, Manager of the surplus store as well as Amie Lang, Placement Consultant. On February 18, 2004, the claimant met with Joe Hanagan and Amie Lang. There was a lengthy discussion of security problems at the surplus store. The claimant made a number of suggestions and as he left the room was informed by Amie Lang, Placement Consultant that there were certain job opportunities open for him which the claimant refused. In addition, on April 23, 2003, the claimant was offered a one-day position at Iowa Memorial Union. The claimant could not accept the offer because he had a doctor's appointment and had been ill since the termination of his employment on February 17, 2004 with bronchitis. The claimant was unable to report for work that week.

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".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor

market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The record justifies a conclusion that the claimant was ill during the period from February 15, 2004 through February 21, 2004 because of bronchitis and had an appointment with the physician on February 23, 2004, which prevented him from accepting the job offer that was made by Amie Lang, Placement Consultant. The administrative law judge concludes that Leonard A. Johnson was not eligible to receive unemployment insurance benefits from February 15, 2004 through February 21, 2004 because of illness and did not meet the availability requirements of the last all within the intent and meaning of the foregoing sections of the Iowa Code and Iowa Administrative Code.

DECISION:

The unemployment insurance decision dated March 17, 2004, reference 01, is affirmed. Leonard A. Johnson is not eligible to receive unemployment insurance benefits from February 15, 2004 through February 21, 2004. Benefits are allowed thereafter provided the claimant meets all other eligibility requirements of the law.

kjf/b