

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

EDWARD L STITT
2215 S PALMETTO ST
SIOUX CITY IA 51106

K P CONSTRUCTION INC
PO BOX 397
SERGEANT BLUFF IA 51054-0397

Appeal Number: 05A-UI-05702-SWT
OC: 01/09/05 R: 01
Claimant: Appellant (4)

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 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 23, 2005, reference 02, that concluded the claimant was unable to work from January 9, 2005, through February 26, 2005. A telephone hearing was held on June 14, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a concrete worker until January 6, 2005, when he was temporarily laid off due to lack of work. He filed a new claim for unemployment insurance benefits with an effective date of January 9, 2005.

The claimant had an operation for heart problems on January 7, 2005. As a result, he was unable to work from January 7 through January 17, 2005. As of January 18, the claimant had recovered from the operation and was able to and available for work, including work for the employer. He returned to work for the employer when he was called back to work on February 28, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by Iowa Code section 96.4-3.

The claimant was unable to work from January 7 through January 17, 2005. As a result, the claimant was ineligible for unemployment benefits for the week ending January 15, 2005. The unemployment insurance rules provide that a claimant must be available for a majority of the week in order to receive benefits. He, therefore, was eligible to receive benefits for the week ending January 22, 2005, and thereafter.

DECISION:

The unemployment insurance decision dated May 23, 2005, reference 02, is modified in favor of the claimant. The claimant is ineligible for benefits for the week ending January 15, 2005, because he was unable to work. The claimant is eligible to receive unemployment insurance benefits effective January 16, 2005, provided he is otherwise qualified.

saw/tjc