



AMG/fnv

**CONCURRING OPINION OF JOHN A. PENO:**

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would comment that the claimant is not required to report his availability to the employer on a weekly basis to qualify for unemployment benefits. The claimant disputes that he signed an availability form and the employer failed to present the form at the hearing. However, the employer is entitled to know that the claimant is available for work.

I find the employer's testimony that the claimant informed him not to send his resume to another customer in Burlington based on the claimant's intention to work for the City of Keokuk to be credible. The claimant admits he applied there, but was not hired. The only way the employer would know about the claimant's situation with the City of Keokuk would be from the claimant. Thus, I find the employer's testimony more credible than the claimant's and would affirm the administrative law judge's decision.

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John A. Peno

AMG/fnv