

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant was often late for work. The claimant's hours were cut due to the chronic tardiness. The claimant was able and available for work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant is able and available for work.

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".

Benefits shall be allowed effective August 7, 2005. The cut in hours was initiated by the employer. The claimant was able and available for work. The claimant had no restriction on his availability for work. This is a change in the contract of hire that was initiated by the employer. The claimant is eligible for benefits.

DECISION:

The decision of the representative dated September 6, 2005, reference 01, is affirmed. The claimant is eligible to receive unemployment insurance benefits, effective August 7, 2005, provided the claimant meets all other eligibility requirements.

mdm\tjc