

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COREY J WHITEHILL**  
Claimant

**APPEAL NO. 09A-UI-05901-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C & K ENTERPRISES INC**  
**PIZZA HUT OF AUDUBON & SHENANDOAH**  
Employer

**OC: 03/15/09**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Corey Whitehill filed a timely appeal from a representative's decision dated April 9, 2009, reference 01, which denied unemployment insurance benefits as of March 15, 2009 because the claimant did not meet the availability requirements of the law. After due notice, a hearing was scheduled for and held on May 12, 2009. The claimant participated personally. The employer did not participate.

**ISSUE:**

At issue in this matter is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Act.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness and having considered all of the evidence in the record, finds: The claimant opened a claim for unemployment insurance benefits effective March 15, 2009 and was issued the customary informational brochure that explains the unemployment compensation system and its requirements. Mr. Whitehill is employed part-time with Pizza Hut of Audubon and Shenandoah. The claimant's working hours are limited by lack of a driver's license. The claimant has childcare obligations Sunday through Wednesday, providing care for his two-year-old daughter and has joint custody. Mr. Whitehill has no transportation or driver's license.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes that the claimant is not 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".

The evidence in the record establishes that the claimant has substantial personal obligations that limit his availability to work. The claimant has joint custody of his two-year-old daughter and has no childcare arrangements and must care for his daughter Sunday through Wednesday each week. The claimant also does not possess a driver's license or transportation but continues to be employed part-time at the same hours and wages agreed upon at the time hire with Pizza Hut.

Although sympathetic to Mr. Whitehill's situation, the administrative law judge must conclude that the various factors limiting the claimant's availability for work substantially remove him from the labor market and the claimant is thus not able and available for work as required by the provisions of the law and is ineligible to receive unemployment insurance benefits unless his status changes.

**DECISION:**

The representative's decision dated April 9, 2009, reference 01, is affirmed. The claimant is not able and available for work. He is ineligible for benefits effective March 15, 2009.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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