

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**ETHAN J BEECH**  
Claimant

**DALL-HAUS INC**  
Employer

**APPEAL 20R-UI-12640-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Appellant (2)**

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

**STATEMENT OF THE CASE:**

Ethan Beech (claimant/appellant) filed an appeal from the July 2, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on August 27, 2020. The parties were properly notified of the hearing. The claimant participated personally. Dall-Haus Inc (employer/respondent) registered a number for the hearing but the administrative law judge was unable to reach the employer's representative at the number provided. A decision was issued on September 1, 2020, reversing the July 2, 2020 decision and finding claimant eligible for benefits.

Employer appealed the September 1, 2020 decision to the Employment Appeal Board (EAB). The EAB remanded for a new hearing.

After due notice was issued, a hearing was held on December 10, 2020. Claimant participated personally. Employer participated by GM Kendra Gehman. Official notice was taken of the administrative record.

**ISSUES:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer in March 2017. Claimant most recently performed work for employer in January 2020. Claimant worked for employer during periods he was not attending college full time. Claimant had in the past typically contacted employer around mid-May to inform it that he was available for summer work.

Claimant was available sooner than expected this year due to college classes moving online. Claimant came into the restaurant on April 5, 2020 around lunchtime and informed Gehman that

he was available for work. Gehman does not recall this interaction but acknowledges it may have slipped her mind because she would have been busy during the lunch hour.

There was work available for claimant. However, claimant did not subsequently hear from Gehman or anyone else at employer about being scheduled for work. Claimant ultimately began working another job in early July 2020. He was able to and available for work prior to that. He returned to school full-time around August 17, 2020.

Claimant filed a claim for benefits each week from the benefit week ending May 9, 2020 and continuing through the benefit week ending June 27, 2020.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the July 2, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant was able to and available for work from the benefit week ending May 9, 2020 and continuing through the benefit week ending June 27, 2020. He is eligible for benefits during this period, provided he meets all other eligibility requirements.

Iowa Code section 96.4(3) provides:

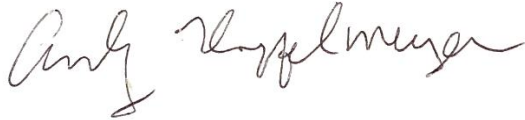
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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".

Claimant was on a leave of absence from his last day worked in January 2020 in order to attend school. However, claimant notified employer of his availability in early April and was otherwise able and available for work at that time. Because claimant was able and available for work during the weeks in which he filed claims for benefits, he is eligible for benefits in each of those weeks. He is not eligible for subsequent weeks due to being employed elsewhere and subsequently back at school full-time.

**DECISION:**

The July 2, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant was able to and available for work from the benefit week ending May 9, 2020 and continuing through the benefit week ending June 27, 2020. He is eligible for benefits during this period, provided he meets all other eligibility requirements.



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Andrew B. Duffelmeyer  
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December 18, 2020  
Decision Dated and Mailed

abd/mh