IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

AARON D DEATON
Claimant

APPEAL NO. 19A-UI-03033-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

OC: 02/17/19
Claimant: Appellant (1R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Aaron Deaton (claimant) appealed a representative's April 2, 2019 decision (reference 05) that concluded he was not eligible to receive unemployment insurance benefits as of March 10, 2019, because he had no means of transportation to work with Remedy Intelligent Staffing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 1, 2019. The claimant participated personally. The employer participated by Keyshona Frick, Senior Staffing Consultant. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was able and available for work as of March 10, 2019.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment agency. The claimant worked for the employer off and on at the same location from 2018 to March 15, 2019. The location was on the bus route and the claimant only worked when the bus was in service. The claimant had a drivers' license but no vehicle. The employer accommodated the claimant's need to not work on Wednesdays. On or about March 15, 2019, the claimant was separated from his assignment for performance issues.

On March 14, 2019, the employer offered him a first-shift job in North Liberty, Iowa, a town near Iowa City, Iowa. The claimant refused the job because the bus schedule would not allow him to get to work on time and he could not get home taking the bus. On March 15, 2019, the employer offered him a second-shift job in Coralville, Iowa, a town that abuts Iowa City, Iowa. The claimant refused the job. Even though he could get to work, there was no bus running when his shift ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not available for work due to lack of transportation.

Iowa Admin. Code r. 871-24.23(4) provides:

> Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

> (4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

Iowa Admin. Code r. 871-24.23(18) provides:

> Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

> (18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When a claimant has limited his means of transportation to employment such that he is only willing to work in certain areas, the claimant is deemed to not be available for work. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work outside of the bus route.

The issue of the claimant's separation from employment is remanded for determination

DECISION:

The representative's April 2, 2019 decision (reference 05) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work as of March 10, 2019.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs