

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRIAN D SMITH
Claimant

APPEAL 19A-UI-09475-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 09/29/19
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Brian Smith (claimant) appealed a representative's November 19, 2019, decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits from October 27, 2019, through November 9, 2019. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 30, 2019. The claimant did participate.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits with an effective date of September 29, 2019. He traveled to Colorado to seek work from October 27, 2019, to November 8, 2019. During his time in Colorado he had five contacts with employers in an effort to find work. He was able and available for work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant was able and available for work from October 27, 2019, to November 8, 2019.

Iowa Admin. Code r. 871-24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

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 an employee is away from home for personal issues, he is considered to be unavailable for work. The claimant was not out of town for personal issues, he was looking for work. The law does not penalize a person who is trying to find work in another state. He is considered to be able and available for work from October 27, 2019, to November 8, 2019. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The representative's November 19, 2019, decision (reference 03) is reversed. Benefits are allowed from October 27, 2019, to November 9, 2019, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs