

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID W LANDERS
Claimant

MCANINCH CORP
Employer

APPEAL 21A-UI-18778-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/18/20
Claimant: Appellant (5)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the August 24, 2021 (reference 02) unemployment insurance decision that denied benefits finding that the claimant was not able to and available for work effective June 20, 2021. After due notice was issued, a telephone hearing was held on October 18, 2021. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant able to work and available for work effective June 20, 2021?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant filed his original claim for unemployment insurance benefits with an effective date of October 18, 2020. He works full-time as a heavy machine operator for the employer since July 30, 2018. He continues to work there to date. He filed his original claim for unemployment insurance benefits due to lack of work because of rain on the job site. Claimant filed other weekly-continued claims for benefits during weeks in which he was laid off due to weather and was not called to work. He was otherwise able to work and available for work if there would have been work available for him to go to. As of June 20, 2021, claimant was back to work for the employer full-time. No further weekly-continued claims were filed after June 5, 2021 on the claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

Iowa Admin. Code r. 871-24.23(23) provides:

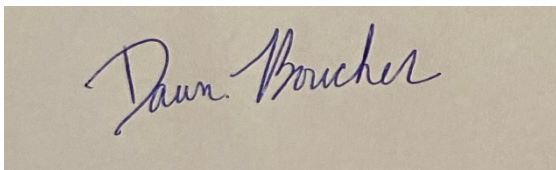
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

In this case, by June 20, 2021, the claimant had returned to work full-time and was working to such a degree that removed him from the labor market for other work and was therefore not unemployed at that time. Prior to June 20, 2021, the claimant had weeks in which he was temporarily laid off due to weather. As such, unemployment insurance benefits are allowed effective October 18, 2020 through June 19, 2021, provided the claimant remained otherwise eligible. Effective June 20, 2021, the claimant was back to work full-time and was no longer unemployed. As such, unemployment insurance benefits are denied effective June 20, 2021 as the claimant was back to work full-time.

DECISION:

The August 24, 2021 (reference 02) decision is modified with no change in effect. The claimant has established he was able to and available for work effective October 18, 2020 and was laid off due to lack of work. Benefits are allowed effective October 18, 2020 through June 19, 2021, provided the claimant was otherwise eligible. As of June 20, 2021, claimant was back to work full-time and was no longer unemployed. As such, benefits are denied effective June 20, 2021 as the claimant was no longer unemployed.



Dawn Boucher
Administrative Law Judge

October 22, 2021
Decision Dated and Mailed

db/kmj