

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DYLAN M ROLING
Claimant

APPEAL NO. 13A-UI-06349-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 03/24/13
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The employer filed an appeal from the May 16, 2013 (reference 02) unemployment insurance decision that found no offer of work was made and allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 3, 2013. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through unemployment benefits administrator Colleen McGuinty and administrative assistant Amanda Sullivan.

ISSUE:

Is the claimant able to and available for work effective April 10, 2013?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer agrees that an offer of work was not made on April 10, 2013, but is challenging the claimant's availability for work. Claimant last worked for the employer in an assignment from November 2 through March 14, 2013. He did not request further assignment or report his availability to the employer so it mailed him a postcard requesting communication on April 8, 2013. (Employer's Exhibit 1) He did not contact the employer until June 26, 2013, when he accepted an assignment, worked one day on June 27, and then was a no-call/no-show thereafter. The employer will notify IWD about the June 27 assignment separation for an initial determination. Claimant claimed and was paid benefits for the three weeks ending April 13, 2013. No further claims have been filed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work 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".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Claimant is not available for work effective April 14, 2013 and he did not communicate with the employer after the end of the assignment or in response to the postcard it sent on April 8, 2013.

DECISION:

The May 16, 2013 (reference 02) decision is reversed. The claimant is not able to work and available for work effective April 14, 2013. Since no benefits were claimed or paid after April 13, 2013, no overpayment is established.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs