

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TYLER P BOHNENKAMP**  
Claimant

**MOLZHON PIZZA LLC**  
Employer

**APPEAL 17A-UI-04904-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/09/17**  
**Claimant: Respondent (1R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

Molzhon Pizza, LLC (employer) filed an appeal from the May 3, 2017, reference 01, unemployment insurance decision that allowed benefits based upon the determination Tyler P. Bohnenkamp (claimant) was available for work effective April 9, 2017. After due notice was issued, a telephone conference hearing was held on May 25, 2015. The claimant participated. The employer participated through Pizza Cook Mike Frueh and Delivery Driver Eric Detlefsen. No exhibits were offered or received.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work effective April 9, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer when it purchased the business on December 1, 2015. The claimant had worked at the business as a Delivery Driver for approximately five years prior. On or about February 19, 2017, the employer provided a vehicle that the claimant used for his deliveries broke. The employer determined it was not cost effective to fix the vehicle and demanded the claimant supply his own vehicle, gas, and insurance. The claimant did not have a vehicle and the employer stopped scheduling him. Approximately three weeks later, another employee, Eric Detlefsen, began working as the delivery driver.

The claimant did not have a vehicle to drive for deliveries; however, he is able to get rides to and from work, if he were offered a position. The claimant is otherwise able to and available for work. The claimant has reported making two job contacts each week, but he has not been tracking his job contacts and could not produce them during the hearing. The claimant has not received any warnings related to work searches.

## 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 for the period in question. Benefits are allowed, provided he is otherwise eligible.

Iowa Code § 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".

Iowa Admin. Code r. 871-24.22 provides, in relevant part:

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.

...

(3) Earnestly and actively seeking work. Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that he individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts which might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual

claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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).

...

(28) A claimant will be ineligible for benefits because of failure to make an adequate work search after having been previously warned and instructed to expand the search for work effort.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. While the claimant did not have the ability to provide a vehicle for his work duties, it does not mean he is not able to and available for work with other employers. The claimant may not be conducting an adequate search work, but he has not received any warnings related to work search and, as such, cannot be disqualified on that basis. This is a warning that he must make at least two job contacts a week to remain eligible for benefits. The claimant is able to, available for, and actively and earnestly seeking work. Accordingly, benefits are allowed, provided he is otherwise eligible.

**DECISION:**

The May 3, 2017, reference 01, unemployment insurance decision is affirmed. The claimant is able to work and available for work effective April 9, 2017. Benefits are allowed, provided he is otherwise eligible.

**REMAND:**

The issues of whether the claimant has separated from the employer and, if so, is that separation qualifying, are remanded to the Benefits Bureau for an initial investigation and determination.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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