

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

EMILY J SWAILES
Claimant

APPEAL NO. 19A-UI-04451-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/17/19
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Emily Swailes filed a timely appeal from the May 24, 2019, reference 03, decision that denied benefits for the week of May 5-11, 2019, based on her weekly claim report that indicated she was not able to work and/or available for work. After due notice was issued, a hearing was held on June 26, 2019. Ms. Swailes participated. The hearing in this matter was consolidated with the hearing in Appeal Numbers 19A-UI-04452-JTT and 19A-UI-04710-JTT. Exhibits A through D and Department Exhibits D-1 through D-5 were received into evidence.

ISSUE:

Whether Ms. Swailes was able to work and available for work during the benefit week that ended May 11, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Emily Swailes established an original claim for benefits that was effective February 17, 2019 and received benefits that included \$372.00 in benefits for the week that ended May 11, 2019. When Ms. Swailes made her weekly claim for that week, she made a mistake by answering no to the question of whether she was able to work and available for work that week. Ms. Swailes was indeed able and available for work that week and had applied for two jobs that week.

REASONING AND CONCLUSIONS OF LAW:

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".

Ms. Swailes was able to work and available for work during the week that ended May 11, 2019 and merely made a mistake on her weekly claim. Ms. Swailes is eligible for benefits for the week that ended May 11, 2019, provided she meets all other eligibility requirements.

DECISION:

The May 24, 2019, reference 03, is reversed. The claimant was able to work and available for work during the week that ended May 11, 2019 and is eligible for benefits for that week, provided she meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs