

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HORTENCIA F DE LA ROSA NAJERA
Claimant

APPEAL 16A-UI-12656-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/31/16
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 21, 2016, (reference 04) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was scheduled to be held on December 14, 2016. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 08 representative's decision), no testimony was necessary and no hearing was held.

ISSUE:

Should the representative's decision be reversed so as to be consistent with subsequent agency action?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 08 representative's decision dated December 8, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

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".

Since the decision appealed has been amended in favor of the appellant, the original representative's decision bearing reference 04 is reversed.

DECISION:

The November 21, 2016, (reference 04) unemployment insurance decision is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs