

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PENGFEI SUN
Claimant

APPEAL 17A-UI-05000-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/26/17
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 5, 2017, reference 02, decision that found him ineligible for benefits for the week beginning April 16, 2017 and ending April 22, 2017, because of indicating unavailability for work when making the weekly claim. After due notice was issued, a hearing was held on May 30, 2017. The claimant participated.

ISSUE:

Was the claimant able to work and available for work beginning April 16, 2017 and ending April 22, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's testimony that he was available for work the week of the claim is credible. Claimant testified when filing his weekly claim he found the question regarding his availability for work confusing as it was rather lengthy and English is not his native language. Claimant accidentally selected the option indicating he was not available, when he is fact was, and had completed at least two work searches for the week. Claimant's answer that he was not available was given in error.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant has made appropriate in person work search contacts.

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".

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that claimant was available for work for the time period in question. Accordingly, benefits are allowed.

DECISION:

The May 5, 2017, (reference 02) decision is reversed. Benefits are allowed for the week ending April 22, 2017, provided he is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs