

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GIRMA G TESSEMA
Claimant

APPEAL 14A-UI-08471-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/15/14
Claimant: Appellant (1)**

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:

The claimant filed an appeal from the August 8, 2014, (reference 01), unemployment insurance decision that denied benefits based upon not being able to or available for work from June 15 through August 16, 2014. After due notice was issued, a telephone conference hearing was scheduled to be held on September 8, 2014. Claimant participated. His witness Terry Weiss was not available.

ISSUE:

Was the claimant available for work from June 15 through August 16, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was out of the country to visit his ill mother in Ethiopia from June 24 through August 14, 2014. He submitted applications via e-mail. He was interviewed on August 10 by Skype while in Ethiopia and was hired by Maharshi University, where he started work on August 28. He did not file continued claims until the two weeks from August 17, 2014 and ending August 30, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was available for work effective August 17, 2014, but was not available for work from June 15 through August 16, 2014.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(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.

Iowa Admin. Code r. 871-24.23(13) and (25) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(13) If a claimant is visiting in another area and is not in the labor market.

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

An individual claiming benefits must be able to work, available for work, *and* actively and earnestly seeking work. Although claimant searched for and had a first interview for a job by Internet and Skype while out of the country for personal reasons, he was not available for work until he returned on August 14, 2014. Accordingly, benefits are denied from June 15 through August 16, 2014. Benefits are allowed for the two weeks ending August 30, 2014.

DECISION:

The August 8, 2014, (reference 01) unemployment insurance decision is affirmed. The claimant was available for work effective August 17, 2014 through August 30, 2014, but was not available for work from June 15 through August 16, 2014.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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