

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ISAIAH BROWN**  
Claimant

**SEDONA STAFFING INC**  
Employer

**APPEAL 19A-UI-08803-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/22/19  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the November 5, 2019 (reference 03) unemployment insurance decision that found claimant was not able to and available for work effective October 13, 2019. The parties were properly notified of the hearing. A telephone hearing was held on December 4, 2019, at 1:00 p.m. Claimant participated. Employer participated through Colleen McGuinty. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant was able to work and available for work effective October 13, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed by Sedona Staffing, Inc., a temporary employment firm, but is not currently on an assignment. (Claimant Testimony) Claimant's last assignment with employer was as a welder at Tristate Industries in Dubuque, Iowa. (Claimant Testimony) The assignment ended in September 2019. (Claimant Testimony) Claimant requested a new assignment. (Claimant Testimony) On October 15, 2019, employer contacted claimant regarding an assignment in Peosta, Iowa approximately 11.5 miles from Dubuque, Iowa. (McGuinty Testimony) Claimant declined the assignment because he did not have reliable transportation to and from Peosta, Iowa. (Claimant Testimony)

Claimant had his own vehicle, car insurance and valid driver's license since filing his original claim with an effective date of September 22, 2019. (Claimant Testimony) Claimant had his own transportation to and from employment in Dubuque, Iowa and could also rely on others for assistance with transportation in that area. (Claimant Testimony) Claimant has no other barriers to his ability to and availability for work. (Claimant Testimony)

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to work and available for work effective October 13, 2019.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

**Benefit 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 provides:

**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).

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant had transportation from his residence to the area of his usual employment effective October 13, 2019 and, thus, meets the availability requires of law. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The November 5, 2019 (reference 03) unemployment insurance decision is reversed. Claimant is able to work and available for work effective October 13, 2019. Benefits are allowed provided claimant is otherwise eligible.

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Decision Dated and Mailed

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