

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RICARDO L SMALL**  
Claimant

**GLOBAL SPECTRUM LP**  
Employer

**APPEAL 15A-UI-09925-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/09/15**  
**Claimant: Appellant (2)**

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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 28, 2015, (reference 02) unemployment insurance decision that denied benefits based on a finding claimant was not able or available for work. The parties were properly notified about the hearing. A telephone hearing was held on September 17, 2015. Claimant participated. Employer participated through director of finance, Diane Frischmeyer.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a building coordinator from December 18, 2012, and was separated from employment on July 16, 2015, when he was suspended without pay.

Claimant was arrested on July 15, 2015, for misdemeanor assault. Claimant was released shortly thereafter and missed no work due to the arrest. On July 16, 2015, employer learned of claimant's arrest and suspended his employment pending the outcome of the legal proceedings.

Claimant is not currently incarcerated, is present in the Des Moines area, and is seeking work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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".

Claimant is not currently incarcerated, is present in the Des Moines area, and is seeking work. Claimant is available and able for work.

**DECISION:**

The August 28, 2015, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective July 16, 2015. Benefits are allowed, provided claimant is otherwise eligible.

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Christine A. Louis  
Administrative Law Judge  
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Decision Dated and Mailed

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