

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALAN R NISSEN
Claimant

HY-VEE INC
Employer

APPEAL 16A-UI-12812-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/06/16
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(20) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Alan R. Nissen (claimant) filed an appeal from the November 28, 2016, (reference 01) unemployment insurance decision that denied benefits based upon the determination he is not able to and available for work as he is waiting for work with a specific employer. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2016. The claimant participated personally. The employer participated through Manager of Perishables Nick Burke and Kitchen Manager Dave Ambrose. No exhibits were offered or received into the record.

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: The claimant was hired by the employer into a part-time position as a dishwasher beginning on March 15, 2006. The claimant continues to be employed in the same wages and hours as contemplated when he was hired. He works a part-time seasonal position with Crystal Lake Cave, LLC and has been laid off for the season. The administrative record shows he filed a claim for benefits during the week of November 6, 2016. The claimant has not been seeking work as he has been told he will be hired back at Crystal Lake Cave in the spring of 2017. He also has not increased his availability to work with his current employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work, available for work, or actively and earnestly seeking work for the period in question.

An unemployed individual is eligible for benefits each week in which he or she is able to work, available for work, and actively and earnestly seeking work. Iowa Code § 96.4(3). An unemployed individual who waits to be recalled by a former employer or waits to work for a

specific employer is considered unavailable for work. Iowa Admin. Code r. 871-24.23(20). In this case, the claimant has not sought another job as he is waiting to be recalled by Crystal Lake Cave. He is not currently available for work. Accordingly, benefits are denied.

DECISION:

The November 28, 2016 (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective November 6, 2016. Benefits are denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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