

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DEMARQUIS J GREEN
Claimant

APPEAL NO. 20A-UI-01271-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 01/12/20
Claimant: Respondent (2)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.19(38) – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated February 4, 2020, reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on February 28, 2020. Claimant participated personally. Employer participated by Brianna Goodside.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The claimant currently works for Express Services, and was most recently placed with Stetson Building Products. Claimant has been placed at the same placement for a number of years. It works as a seasonal placement. The placement with Stetson ended on January 10, 2020. Claimant notified Express Services of the end of his placement. Since the date of notifying employer, claimant has not requested additional work or kept in contact with employer to let them know he is willing to work if a suitable job were to arise. Claimant has stated that he is waiting to be returned to work at Stetson.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work.

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".

The claimant in this matter has made the choice not to make himself able and available for work since the date of his removal from his placement with Stetson. Claimant is not employed by Stetson, but rather is employed by Express Services and has been placed at Stetson during peak times for the last couple of years. When placement with Stetson ends, claimant has an obligation to first make himself able and available for work with Express Services. If Express services has no work available, claimant may then attempt to apply for unemployment.

DECISION:

The February 4, 2020, reference 02, decision is reversed. As the claimant is not able and available for work, he is not eligible for unemployment benefits.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn