

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MAURICE JONES
Claimant

SHORT STAFFED INC
Employer

APPEAL 17A-UI-12104-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/29/17
Claimant: Respondent (1R)**

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:

The employer filed an appeal from the November 21, 2017, (reference 05) unemployment insurance decision that allowed benefits based upon being able to and available for work. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2017. Claimant participated. Employer participated through vice president of operations Jessica Hinojosa. Payroll manager Ashley Ahrendsen observed.

ISSUE:

Is the claimant able to work and available for work effective October 29, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed with Short Staffed, Inc. on various temporary assignments. The employer was not able to reach him at the designated phone number during the week-ending November 4, 2017. He was able to be reached at the emergency phone number the employer had recorded. He worked 16 hours at \$9.00 per hour (\$144.00 gross wages) the week-ending November 11, 2017. No other work was available. No roofing work was offered that week and claimant has a fear of heights. On Monday, November 13, during the week-ending November 18, 2017, he was separated from the job assignment at Cloverleaf and worked 16 hours at \$9.00 per hour (\$144.00 gross wages) that week. He called off work on November 15, 2017. On Wednesday, November 22, during the week-ending November 25, 2017, he worked 4.5 hours (\$40.50 gross wages for the week) and told the Cloverleaf human resource woman at the assignment location that he was not feeling well. The following day was the Thanksgiving holiday. On Friday, November 24 he reported to look for work but the employer was not permitted to send him back to Cloverleaf or NorAm. He reports every week to look for cleaning work. He has worked at Orpheum events as needed.

The separations from individual assignments at Cloverleaf and NorAm, each a separate period of employment, have not yet been addressed by the Benefits Bureau of IWD pursuant to Iowa Code section 96.5(1)j.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work, and made an earnest search for work effective October 29, 2017.

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".

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 was available for each week by reporting to see if work was available and by being available to work the majority of each week. Accordingly, he is eligible for unemployment insurance benefits.

DECISION:

The November 21, 2017, (reference 05) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective October 29, 2017.

REMAND: The separation issue as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination with notice and appeal rights to both parties.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs