

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SHANNON W SAUERBRY**  
Claimant

**APPEAL NO. 18A-UI-08411-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXIDE TECHNOLOGIES**  
Employer

**OC: 07/15/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Shannon Sauerbry (claimant) appealed a representative's August 3, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he still worked for Exide Technologies (employer) for the same hours and wages as in his original contract for hire. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 29, 2018. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work. .

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 23, 1992, as a full-time wet formation operator. He was laid off from work from July 9 to July 13, 2018. The claimant filed his claim late when he filed a claim for unemployment insurance benefits with an effective date of July 15, 2018. He meant to file during the week he was laid off.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is still employed at the same hours and wages as of July 15, 2018.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant wished to receive unemployment insurance benefits for the week ending July 14, 2018, but he did not file for benefits for that week. He filed for benefits for the following week. The claimant was working full-time for the employer as of July 15, 2018. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for other work as of July 15, 2018, because he had returned to work with the employer.

**DECISION:**

The representative's August 3, 2018, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits as of July 15, 2018, because he had returned to work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs