

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CARRIE LUTHER**  
Claimant

**BURCHLAND MANUFACTURING INC**  
Employer

**APPEAL 17A-UI-02028-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/29/17**  
**Claimant: Appellant (2)**

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 February 13, 2017, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 16, 2017. The claimant participated personally. The employer did not register a phone number with the Appeals Bureau and did not participate. Claimant Exhibit A was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending January 29, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is currently pursuing full-time employment, in purchasing positions, similar to jobs she has worked previously. The claimant's job search encompasses central Iowa, and she has reliable transportation to her employment. She is making her weekly job contacts and recently has applied with Trinity and Jeld-Wen. She has no medical or physical restrictions to accepting work and has been cleared without medical restrictions as she pursues employment

**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 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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The credible evidence presented is that the claimant is currently pursuing full-time employment, in central Iowa, without any medical restrictions. She has reliable transportation and no other restrictions to employability. She is completing her weekly job search contacts. The claimant has established she is able to, available for, and actively and earnestly seeking work. Accordingly, benefits are allowed effective January 29, 2017, provided she is otherwise eligible.

#### **DECISION:**

The February 13, 2017, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective January 29, 2017. Benefits are allowed, provided she is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs