

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAMON L JOHNSON
Claimant

APPEAL NO. 16A-UI-12074-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STATE UNIVERSITY
Employer

OC: 10/16/16
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Damon Johnson (claimant) appealed a representative's November 2, 2016, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he had no means of transportation to work with Iowa State University (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 29, 2016. 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. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was able and available 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 in the spring of 2010, as a full-time grounds keeper one. In 2012, he was diagnosed with type 1 diabetes. The claimant applied for and was granted long term disability until 2035 through the employer. He stopped working on October 11, 2015. He started receiving monthly disability payments of \$1,700.00 in January 2016.

The claimant worked hard to get his medical condition under control and on October 11, 2016, the claimant's physician released him to return to work with the stipulation that he check his blood sugar periodically. The claimant's disability checks ended when he was released to return to work. On October 11, 2016, the claimant provided the doctor's note to the employer and applied to return to work. He is waiting for the employer to find him a position. The employer told him they will place him after transferring current employees and before hiring non-employees.

He applied for unemployment insurance benefits with an effect date of October 16, 2016. During the week ending November 5, 2016, the claimant's vehicle was not working for three days. The claimant had other transportation available to use.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was available for work as of October 16, 2016.

Iowa Admin. Code r. 871-24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

The claimant's means of transportation was lost for a few days but he had other transportation. When a claimant has no means of transportation to employment, the claimant is deemed to not be available for work. The claimant is not disqualified from receiving unemployment insurance benefits because he had transportation and was available for work.

DECISION:

The representative's November 2, 2016 decision (reference 02) is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs