

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID L ROOSE**  
Claimant

**APPEAL NO: 18A-UI-02793-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 01/07/18**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 26, 2018, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 27, 2018. The claimant participated in the hearing. Melissa Lewien, Risk Management, participated in the hearing on behalf of the employer. Employer's Exhibits One through Three were admitted into evidence.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Advance Services, Inc., as a general laborer last assigned to Pella Corporation earning \$11.50 per hour from March 20, 2017 to January 5, 2018. He completed that assignment and made a timely request for another job assignment. When he asked for another assignment January 9, 2018, he stated he would only work in Pella.

On January 19, 2018, the employer offered the claimant a first shift position as a general laborer at Midwest Sanitation earning \$12.00 per hour in Oskaloosa. The claimant refused the job offer and cited the fact his truck was not running well and he wanted to see if Pella Corporation would hire him so he could continue working in Pella. He also mistakenly believed the assignment paid \$11.00 per hour. He did not have his truck running well until the end of February 2018.

On January 22, 2018, the claimant went to the employer to update his phone number and was asked why he refused the Midwest Sanitation job offer. The claimant stated he only wanted to work in Pella.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not 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. 871-24.23(18) provides:

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

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

Iowa Admin. Code r. 871-24.23(20) provides:

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

(20) Where availability for work is unduly limited because the claimant is waiting to be recalled to work by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

The claimant is limiting himself to only working in Pella. The employer offered the claimant a position in Oskaloosa, which is approximately 15 minutes from Pella, but the claimant declined that offer in part because he is only willing to drive 10 miles from his home for work. The claimant also declined the offer because he hopes to be hired by Pella Corporation and wanted to wait to see if that job became available. Both of those factors, the claimant's unwillingness to drive more than 10 miles for an assignment and waiting for a job offer from Pella Corporation, are unduly limiting the claimant's availability for work. Accordingly, he is not considered able and available for work and benefits must be denied.

**DECISION:**

The February 26, 2018, reference 02, decision is affirmed. The claimant is not able to work and available for work effective January 7, 2018. Benefits are denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn