

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHAN T PETERS
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 21A-UI-04351-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (2)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On February 1, 2021, QPS Employment Group, Inc. (employer/appellant) filed a timely appeal from the January 26, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was unemployed due to a short-term layoff and was able and available for work during the layoff.

A telephone hearing was held on April 7, 2021. The parties were properly notified of the hearing. Nathan Peters (claimant/respondent) did not register a number for the hearing and did not participate. Employer participated by Area Operations Manager Kim Kramer and was represented by UI Specialist Mai Lor.

Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on March 7, 2012. Employer is a staffing agency. Claimant was most recently on assignment beginning April 14, 2021. Claimant notified employer on April 21, 2020 that he could not continue in the assignment due to a lack of transportation. Claimant did not request further assignment at that time. Neither did claimant accept offers of assignment made on April 29, May 4, May 12, and June 15, 2020.

Claimant was aware of employer's policy requiring request for reassignment within three days of an assignment ending, and that failing to do so would be considered a voluntary resignation. Claimant signed for and received a copy of that policy on December 16, 2019.

Claimant's wage history indicates he has only had limited employment since the second quarter of 2020, earning just \$1,740.00 in wages with another employer in the fourth quarter of 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 26, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was unemployed due to a short-term layoff and was able and available for work during the layoff is REVERSED.

Iowa Code section 96.4(3) provides:

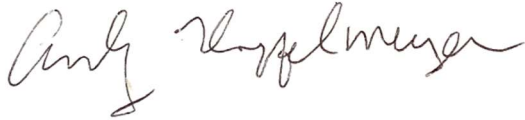
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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".

Claimant has not established that he is able and available for work from April 5, 2020 to present. The evidence instead shows claimant has not requested further assignment, has declined further assignment when offered, and has worked only sparingly for another employer since the last date of assignment with employer. Prior to that, claimant was on assignment with employer and so employed to such an extent as to be unavailable for work. Benefits are therefore denied from April 5, 2020 and continuing until claimant has established he is able to and available for work.

DECISION:

The January 26, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning April 5, 2020 based on a finding claimant was unemployed due to a short-term layoff and was able and available for work during the layoff is REVERSED. Claimant has not established that he is able to and available for work from April 5, 2020 and continuing to date. Benefits are therefore denied.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

April 12, 2021
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.