

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IRVING CANO
Claimant

APPEAL NO: 19A-UI-05177-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
Employer

OC: 06/02/19
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 17, 2019, 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 July 23, 2019. The claimant participated in the hearing. Karyn Goldensoph, Human Resources Supervisor and Nikki Bruno, Human Resources Manager, participated in the hearing on behalf of the employer. Claimant's Exhibit A was 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 separated from his employment with West Liberty Foods April 1, 2019. He filed a claim for benefits effective June 2, 2019. The claimant has not had any transportation since filing his claim and is moving around staying with friends. He is staying in North Liberty at the present time and neither North Liberty or West Liberty where he previously lived offers bus service.

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(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).

Unfortunately the claimant has not had transportation since filing his claim effective June 2, 2019. If he secures transportation he should report to his local Iowa Workforce Development office because the determination of whether a claimant is able and available for work is made on a week by week basis. Accordingly, the claimant is not considered able and available for work and benefits must be denied.

DECISION:

The June 17, 2019, reference 02, decision is affirmed. The claimant is not able to work and available for work effective June 2, 2019. Benefits are denied effective the week ending June 8, 2019.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn