

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**OLEN W ALDRIDGE**  
Claimant

**APPEAL NO. 10A-UI-00676-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A+ LAWN & LANDSCAPPING INC**  
Employer

**Original Claim: 11-29-09  
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 7, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on February 23, 2010. The claimant did participate. The employer did participate through Mark Harpenau, Owner.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a mower, part-time, beginning June 10, 2009. On November 23 he and his coworkers were told that the mowing season had ended but they were allowed to sign up to do snow removal work if they wanted to. The claimant agreed to perform snow removal work. The employer began calling the claimant for snow removal work on December 7, but the claimant would not report for work. The claimant was called numerous times but was unwilling to or unable to work when snow removal work was available for him. There was work available every day during the month of December for the claimant, but he would not return the employer's calls nor did he report to work when sent messages to do so.

**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 December 7, 2009.

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".

871 IAC 24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

871 IAC 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.

The claimant was simply unwilling to work at snow removal when the work was available during each day of December. The administrative law judge is persuaded that the claimant was sent the proper text messages and more than one telephone call notifying him that work was available, but he did not report to work. Accordingly, benefits are denied.

**DECISION:**

The January 7, 2010, reference 02, decision is affirmed. The claimant is not able to work and available for work effective December 7, 2009. Benefits are denied.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/kjw