

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RANDALL L SANCHEZ**  
Claimant

**APPEAL NO. 13A-UI-03391-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BAUER BUILT INC**  
Employer

**OC: 03/03/13**  
**Claimant: Respondent (2)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The employer, Bauer Built, filed an appeal from a decision dated March 14, 2013, reference 01. The decision allowed benefits to the claimant, Randall Sanchez. After due notice was issued a hearing was held by telephone conference call on April 23, 2013. The claimant participated on his own behalf. The employer participated by Human Resources Director Jannine Kralewski.

**ISSUE:**

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

**FINDINGS OF FACT:**

Randall Sanchez filed a claim for unemployment benefits with an effective date of March 3, 2013. This was apparently inadvertent because he misunderstood a suggestion from a co-worker. He thought he need only input his employment information on the Iowa Workforce Development web site and then “activate” the claim when work slowed down to the point where his had fewer wages than his weekly benefit amount.

The number of hours worked and the amount of earnings never went low enough to warrant a weekly claim being filed. He has not received any benefits as of the date of the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

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(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant cannot be considered able and available for work as he was working sufficient hours every week for his regular employer to remove him from the labor market.

**DECISION:**

The representative's decision of March 14, 2013, reference 01, is reversed. Randall Sanchez is ineligible for benefits as he is not able and available for work.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs