

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY A CULBERTSON
Claimant

APPEAL 17A-UI-01300-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAUER BUILT MANUFACTURING INC
Employer

**OC: 01/01/17
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 24, 2017 (reference 02) unemployment insurance decision that found claimant was not able and available for work because he was only willing to work in specific areas. The parties were properly notified of the hearing. A telephone hearing was held on February 24, 2017. The claimant, Jeremy A. Culbertson, participated and was represented by attorney Laura Jontz of Iowa Legal Aid. The employer, Bauer Built Manufacturing, Inc., did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibits A, B, and C were received and admitted into the record.

ISSUE:

Is the claimant able to work and available for work effective January 1, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was most recently employed full time as an IT Manager with Bauer Built Manufacturing, Inc. Claimant separated from this employer on December 9, 2016. During his employment, he worked almost entirely from home. Claimant has a medical condition that renders him physically unable to drive, so work-from-home positions are ideal. Claimant is currently looking for employment in information technology. He testified that he has held other work-from-home or work-remote positions in this field.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able and available as of January 1, 2017.

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(3) provides:

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

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

Here, claimant admits that he is restricting his work search to those positions that allow an employee to work from home or work remotely. Claimant testified and his exhibits show that this type of work is not uncommon in the information technology field. Though restricting his work search in some way, claimant maintains a reasonable expectancy of securing work. The administrative law judge finds claimant is available for work as of January 1, 2017.

DECISION:

The January 24, 2017 (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective January 1, 2017. Benefits are allowed. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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