

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**WES R LANGLEY**  
Claimant

**APPEAL NO. 17A-UI-07352-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CROSSMARK INC**  
Employer

**OC: 06/25/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.23(26) – Part-Time Worker – Able and Available

**STATEMENT OF THE CASE:**

Wes Langley (claimant) appealed a representative's July 19, 2017, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits based on his employment with Crossmark (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 7, 2017. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. Exhibit D-1 was received into evidence.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work. .

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in October 2016, as a part-time data collector. He also holds part-time job with Acosta. When he was hired to work for the employer he agreed to work approximately twenty to twenty five hours per week. In May 2017, the employer decreased his hours to two to five hours per week. The claimant agreed to the change of hours by working those hours without filing for unemployment insurance benefits at the time of the change. On June 25, 2017, the claimant filed for unemployment insurance benefits.

**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".

Iowa Admin. Code r. 871-24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a part-time worker and is still working part-time for the employer. There has been no change to his hours since May 2017. He is not working on a reduced schedule since his new contract for hire in May 2017. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work.

**DECISION:**

The representative's July 19, 2017, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work within the meaning of the law.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs