

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HECTOR O VELASCO
Claimant

APPEAL NO. 15A-UI-05790-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/20/14
Claimant: Appellant (2)

Section 96.5-10 – Authorization to Work in the United States
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated April 30, 2015, reference 06, that concluded he was not eligible to receive unemployment insurance benefits. A hearing was not deemed necessary to be held in order to make a decision for reasons which will appear in the Findings of Fact.

ISSUE:

The issue is whether the claimant was legally authorized to work in the United States.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant filed an original claim for unemployment insurance benefits effective April 20, 2014. A representative's April 30, 2015, decision (reference 06) denied the claimant unemployment insurance benefits as of April 20, 2015, because he had not provided proof of citizenship or work registration in the United States.

A representative's May 1, 2015, decision (reference 07) found the claimant overpaid unemployment insurance benefits in the amount of \$423.00 because of the decision dated April 30, 2015.

A representative's May 20, 2015, decision (reference 08) allowed the claimant unemployment insurance benefits as of April 20, 2015, because he had provided proof of citizenship or work registration in the United States.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is available for work.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5-10 provides:

10. Aliens—disqualified. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of § 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

When an employee fails to provide proof of citizenship or work registration, he is considered to be unavailable for work. Inasmuch as the department entered a reversal of their previous decision prior to the appeal hearing, no appeal hearing is necessary. The claimant is considered to be available for work. He is qualified to receive unemployment insurance benefits as of April 20, 2015.

DECISION:

The representative's April 30, 2015, decision (reference 06) is reversed. The claimant is considered to be available for work. He is qualified to receive unemployment insurance benefits as of April 20, 2015.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css