

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LESLIE E CASON
Claimant

MARKETLINK INC
Employer

APPEAL 19A-UI-04130-H2T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/25/18
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 9, 2019, (reference 07) decision that denied benefits effective February 24, 2019. The parties were properly notified about the hearing. A telephone hearing was held on June 13, 2019. Claimant participated. Employer participated through Kim Passick, Center Director.

ISSUE:

Was the claimant able to and available for work effective February 24, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of November 25, 2018. Claimant was hired to work full time for this employer on February 22, 2019. As of the date of the hearing the claimant is still employed full time with Marketlink, Inc. his current employer. The employer's records illustrate that the claimant has worked over thirty-five hours per week each week since he was hired except for his first week of employment. The claimant's first day was on a Friday, February 22, when he worked a partial day and was paid for 4.75 hours of work at \$12.00 per hour.

The claimant learned that his wages were going to be garnished shortly after he began working for this employer. The claimant wanted to collect unemployment benefits while he was working full time because his wages were being garnished for a debt he owed. The claimant did not accurately report all the wages he earned during the weeks he earned them when he was making his weekly continuing claim for unemployment insurance benefits. When the claimant did report wages earned he did not report the amount his employer turned over to the claimant's creditor pursuant to the court ordered garnishment.

The claimant's hours of work were not and have not been decreased by his current employer since he began his full time employment on February 22, 2019. The claimant's hourly rate of pay has not been decreased by his current employer since he began his full time employment.

Claimant received unemployment insurance benefits in the gross amount of \$255.00 for the week ending March 2, 2019. Claimant worked full time that week at \$13.00 per hour. When he made his weekly continuing claim for benefits for the week claimant reported that he earned no (\$0.00) wages at all that week.

Claimant received unemployment insurance benefits in the amount of \$118.00 for the week ending March 16, 2019. Claimant worked full time hours of 37.37 hours for the week at \$13.00 per hour. Claimant earned gross wages of \$485.81 for the week. When making his weekly continuing claim for unemployment insurance benefits he reported gross earnings of \$200.00. Claimant did not report all the wages he earned that were garnished from his check and turned over to his creditor. Claimant also did not report any wages he earned that his employer withheld for federal and state taxes. Claimant did not accurately report his wages for the week.

Claimant received unemployment insurance benefits in the amount of \$118.00 for the week ending March 23, 2019. Claimant worked full time hours of 37.90 hours for the week at \$13.00 per hour. Claimant earned gross wages of \$492.70 for the week. When making his weekly continuing claim for unemployment insurance benefits he reported gross earnings of \$200.00. Claimant did not report all the wages he earned that were garnished from his check and turned over to his creditor. Claimant also did not report any wages he earned that his employer withheld for federal and state taxes. Claimant did not accurately report his wages for the week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to and 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 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(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 has worked full time for this employer since he began on February 22, 2019. As this employer has not reduced claimant's hours of work or his hourly pay rate, claimant is not partially unemployed.

Claimant's argument that he is allowed to collect unemployment benefits when his wages are garnished because the Iowa Workforce Development handbook does not say he cannot is not persuasive. The handbook does not substitute for the law. Claimants are put on notice when they file a claim for benefits that they are obligated to follow the statute and administrative code. A claimant whose wages are reduced due to a garnishment is not allowed to collect unemployment insurance benefits. As the claimant continues to work full time, he is not considered able to and available for work and is thus, not eligible for any unemployment insurance benefits. Accordingly, benefits are denied.

DECISION:

The May 9, 2019, (reference 07) decision is affirmed. The claimant is not able to and available for work effective February 24, 2019. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs