

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GOBBIES LLC
Claimant

TRAVIS M CAVANAUGH
Employer

APPEAL 17A-UI-01369-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/01/17
Claimant: Respondent (1)

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 employer filed an appeal from the February 2, 2017 (reference 03) unemployment insurance decision that allowed benefits based upon a determination that claimant was medically able to work. The parties were properly notified of the hearing. A telephone hearing was held on Monday, February 20, 2017. The claimant, Travis M. Cavanaugh, participated. The employer, Gobbies, L.L.C., participated through Larry Ikonopolous, Owner/Operator. Claimant's Exhibit A and Employer's Exhibits 1 and 2 were received and admitted into the record.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending January 7, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a bartender, from August 2015 until December 29, 2016, when he was discharged for absenteeism. Claimant sent Ikonopolous a message on December 29 and reported that he would not be able to come to work due to accidental gluten exposure that caused illness. Claimant and Ikonopolous had a text message exchange over the course of the following day. During this conversation, Ikonopolous requested a doctor's note clearing claimant to return to work. Claimant explained that his health issue was caused solely by accidental gluten exposure and had already resolved. Claimant was discharged. He never provided the employer with a doctor's note.

Claimant continues to have issues related to his digestive system. He testified that he is not experiencing anything that would prevent him from holding down a job. He is looking for work in retail, a restaurant or bar, a grocery store, or a clerical environment. Claimant has experience in all of these areas.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able to work and available for work.

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The evidence in the record indicates claimant is medically able to work. While he did not provide a doctor's note to the employer, the administrative law judge finds a doctor's note is not necessary. Benefits are allowed.

DECISION:

The February 2, 2017 (reference 03) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective January 1, 2017. Benefits are allowed, provided claimant is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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