

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD R VONDRACEK
Claimant

APPEAL NO. 16A-UI-10527-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/26/16
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Donald Vondracek filed a timely appeal from the September 26, 2016, reference 03, decision that denied benefits for the week of September 4-10, 2016, based on an agency conclusion that he did not meet the able and available requirements. An appeal hearing was set for October 11, 2016 and the Appeals Bureau properly notified Mr. Vondracek. Mr. Vondracek did not respond to the hearing notice instructions to register a telephone number for the hearing. However, upon review of the agency's administrative record, the administrative law judge determined that the agency has taken action that eliminates the need for an appeal hearing in this matter. The administrative law judge enters the following decision based on the agency's administrative records, in particular the September 27, 2016, reference 06, decision.

ISSUE:

Whether Mr. Vondracek failed to meet the able and available requirements during the week of September 4-10, 2016 and, therefore is not eligible for benefits for that week.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On September 26, 2016, a Workforce Development claims deputy entered a reference 03, decision that denied benefits for the week of September 4-10, 2016, based on an agency conclusion that he did not meet the able and available requirements. On September 27, 2016, a Workforce Development claims deputy entered a reference 06 decision that allowed benefits effective September 4, 2016, provided Mr. Vondracek was otherwise eligible, based on an agency conclusion that Mr. Vondracek did indeed meet the able and available requirements. In other words, the agency effectively reversed its own decision regarding the claimant's eligibility.

REASONING AND CONCLUSIONS OF LAW:

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".

Because the agency reversed itself by entering the September 27, 2016, reference 06, decision that allowed benefits effective September 4, 2016, provided Mr. Vondracek was otherwise eligible, based on an agency conclusion that Mr. Vondracek met the able and available requirements, there is no need for further action on the appeal other than to enter a decision that conforms with the reference 06 decision.

DECISION:

The September 26, 2016, reference 03, is reversed. The claimant met the able and available requirements effective September 4, 2016 and is eligible for benefits effective September 4, 2016, provided he meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs