

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAKINYA M WOODLAND
Claimant

L A LEASING INC
Employer

APPEAL 19A-UI-00718-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/04/18
Claimant: Appellant (4R)**

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:

Lakinya M. Woodland (claimant) filed an appeal from the January 22, 2019, reference 02, unemployment insurance decision that denied benefits effective November 25, 2018, based upon the determination she was not able to and available for work due to a lack of transportation. After due notice was issued, a telephone conference hearing was held on February 11, 2019. The claimant participated. The employer participated through Unemployment Benefits Administrator Colleen McGuinty. No exhibits were offered into the record.

ISSUE:

Is the claimant able to work, available for work, and actively and earnestly seeking work effective November 25, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her original claim for unemployment insurance benefits effective November 4, 2018. On Wednesday, November 28, 2018, the employer contacted the claimant to offer her a job. The claimant declined the position because she did not have transportation as her vehicle was broken. The claimant's vehicle was repaired by Saturday, December 1, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work during the week ending December 1, 2018. Benefits are denied for that week.

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. 871-24.22(2) provides, in relevant part:

Benefit 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.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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

...

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant did not have transportation for the majority of the work week during the week ending December 1, 2018. Accordingly, she is not eligible for unemployment insurance benefits. Benefits are denied for the week ending December 1, 2018.

The issue of whether the claimant has been overpaid unemployment insurance benefits for the week ending December 1, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development (IWD) for an initial investigation and determination.

The claimant has established that she had transportation effective December 2, 2018. She is considered able to and available for work. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The January 22, 2019, reference 02, unemployment insurance decision is modified in favor of the appellant. The claimant was not able to and available for work during the week ending December 1, 2018. Benefits are denied for the week ending December 1, 2018. She is able to work and available for work effective December 2, 2018. Benefits are allowed effective December 2, 2018, provided the claimant is otherwise eligible.

REMAND:

The issue of whether the claimant has been overpaid unemployment insurance benefits for the week ending December 1, 2018 is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn