

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICOLE C FARRELL
Claimant

APPEAL 19A-UI-07823-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/19/19
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Nicole Farrell (claimant) appealed a representative's October 2, 2019, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits from September 8, 2019, through September 14, 2019, because she was not ready, willing, or able to work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on October 28, 2019. The claimant participated personally.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on May 19, 2019. For the week ending September 14, 2019, the claimant pushed a button in error resulting in incorrect computer response data. She said she was not able and available for work when she actually was able and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was able and available for work for the week ending September 14, 2019.

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".

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that she was able and available for the week ending September 14, 2019. There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's October 2, 2019, decision (reference 03) is reversed. The claimant is able and available for work for the week ending September 14, 2019.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/scn