

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ALBERT S DWEH**  
Claimant

**CHILDSERVE HOMES INC**  
Employer

**APPEAL 17A-UI-01667-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/22/17**  
**Claimant: Respondent (2)**

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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 10, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon a short-term layoff. The parties were properly notified about the hearing. A telephone hearing was held on March 7, 2017. Claimant did not participate. Employer participated through home supervisor Penny Veith and staff relations specialist Alyssa Ciaramboli. Employer's Exhibit 1 was received.

**ISSUE:**

Is the claimant able to work and available for work effective January 22, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works for employer as a resident assistant. While originally employed on a full-time basis, claimant requested to be moved to PRN status effective November 1, 2017. Claimant requested the change because he obtained full-time employment elsewhere. Eventually, claimant lost his other full-time job and began requesting more PRN hours. During the one week ending January 28, 2017, claimant worked 35.25 hours for employer. During the one week ending February 4, 2017, claimant worked 11.5 hours for employer. During the one week ending February 11, 2017, claimant worked 38 hours for employer. During the one week ending February 18, 2017, claimant was scheduled to work 46 hours for employer. During the one week ending February 25, 2017, claimant was scheduled to work 30 hours for employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not 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. 871-24.23(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.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

In this case, claimant is not considered available to work because since filing his claim he has worked to such a degree that he has removed himself from the labor market with the exception of the one week ending February 4, 2017, during which claimant worked only 11.5 hours. The reason claimant was not working full-time hours during that week is because he requested that the employer move him to PRN status, thereby limiting his willingness to work during the hours in which suitable work was available.

Claimant has not established his availability for work effective January 22, 2017. Thus, benefits must be denied.

**DECISION:**

The February 10, 2017, (reference 01) unemployment insurance decision is reversed. The claimant is not able to work and available for work effective January 22, 2017. Benefits are denied.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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Decision Dated and Mailed

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