

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HERBERT O SPELLER
Claimant

ADESA DES MOINES LLC
Employer

APPEAL NO. 15A-UI-01922-B2

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/25/15
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 11, 2015 reference 05, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on May 27, 2015. Claimant participated personally. Employer participated by Heidi Melroy.

ISSUE:

The issue in this matter is whether 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: Claimant was not able and available for work generally during the time period from December 7, 2014 through January 30, 2015 as claimant was at truck driver school at DMACC. Schooling took place during the hours claimant would normally work. Claimant had a period of time from December 22 through 24, 2014 where claimant had arranged with employer to work that week as he was on vacation from school. On December 22, 2014 claimant did not show up for work. After his shift was to have ended, claimant called up employer to explain that he was in Illinois attending to his mother and as such he would not be able to make it into work that week.

Claimant was then unable to work until after January 30, 2015 as he was back in school. After January 30, 2015, claimant has remained able and available for work.

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".

Inasmuch as the illness of claimant's mother took claimant away from work, claimant was not able and available for work December 22-24, 2014. Claimant was also not able and available for work the entire rest of the time between December 7, 2014 and January 30, 2015. Benefits shall be allowed effective January 31, 2015 provided claimant meets all other eligibility requirements.

DECISION:

The decision of the representative dated February 11, 2015, reference 05 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective December 7, 2014, through January 30, 2015 as claimant was not able and available to work. Benefits shall be allowed effective January 31, 2015 provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs