

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FEZA MAWAZO
Claimant

APPEAL 16A-UI-12346-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/02/16
Claimant: Appellant (2)**

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 claimant filed an appeal from the November 17, 2016, (reference 04) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work effective October 2, 2016, due to illness. The parties were properly notified of the hearing. A telephone hearing was held on December 15, 2016. The claimant, Feza Mawazo, participated, along with witness Theo Torres. Interpreter Rushimisha, a Congolese Swahili / English interpreter, assisted with the hearing.

ISSUE:

Is the claimant able to work and available for work effective October 2, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed at Amana Whirlpool until September 2016, when she was discharged due to absences. Beginning August 29, 2016, claimant went on a leave of absence related to illness. When she attempted to return to work in September 2016, she was told that she no longer had a job because she had been absent. Claimant maintains she was healthy when she returned to work. Claimant is currently looking for work in various industries. Claimant's work experience includes including work, hotel work, and factory work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able to work and available for work effective October 2, 2016.

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. 871-24.22(2) provides:

Benefits 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.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. The evidence presented during the hearing shows claimant returned from a leave of absence after she recovered from her illness. At that time, claimant was notified that she no longer had employment due to her absences. Claimant has been healthy since that time. She continues to search for work in areas where she has experience. Accordingly, benefits are allowed.

DECISION:

The November 17, 2016, (reference 04) unemployment insurance decision is reversed. The claimant is able to work and available for work effective October 2, 2016. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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