

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DANYELL L PAEPER**  
Claimant

**APPEAL NO. 15A-UI-05829-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**P J IOWA LC**  
Employer

**OC: 04/26/15**  
**Claimant: Respondent (2/R)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 15, 2015, reference 03, decision that allowed benefits to the claimant effective May 3, 2015, provided she was otherwise eligible . After due notice was issued, a hearing was held on July 6, 2015. Cayle Campbell, Area Supervisor, represented the employer. Claimant Danyell Paeper did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant (DBRO) and the claimant's weekly claims for benefits (KCCO).

**ISSUES:**

Whether the claimant has been able to work and available for work since May 3, 2015.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Danyell Paeper established a claim for unemployment insurance benefits that was effective April 26, 2015. At that time, Ms. Paeper was employed by P.J. Iowa, L.C., doing business as Papa John's, as a pizza delivery driver. On April 14, 2015, Ms. Paeper notified the employer that her auto insurance was about to expire and that she would not be able to perform her work duties until she renewed her auto insurance in the beginning of May 2015. Ms. Paeper knew that maintaining valid auto insurance was a condition of her employment as a pizza delivery driver. Ms. Paeper renewed her insurance on or about May 1, 2015 and returned to her pizza delivery duties that day. Thereafter Ms. Paeper worked 30 to 40 hours per week until she last performed work for the employer on July 5, 2015.

Though Ms. Paeper established a claim for unemployment insurance benefits that was effective April 26, 2015, she did not make any weekly claims for benefits and did not receive any benefits.

## REASONING AND CONCLUSIONS OF LAW:

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(4) and (23) provide:

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).

(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 Administrative Code section 871 IAC 24.2(1)(g) provides as follows:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department.

Ms. Paeper had her auto insurance renewed and, therefore, had transportation on or before May 3, 2015. However, Ms. Paeper did not meet the availability requirement effective May 3, 2015 because she was working full time, or near full time, and because she did not make any weekly claims for benefits. Benefits are denied effective May 3, 2015.

The employer advises that the claimant separated from the employment effective July 5, 2015. Accordingly, this matter will be remanded to the Benefits Bureau to address the claimant's eligibility for benefits and the employer's liability for benefits based on the separation from the employment.

**DECISION:**

The May 15, 2015, reference 03, is reversed. The claimant did not meet the availability requirement effective May 3, 2015 because she was working full time, or near full time, and because she did not make any weekly claims for benefits. Benefits are denied effective May 3, 2015.

This matter is remanded to the Benefits Bureau to address the claimant's eligibility for benefits and the employer's liability for benefits based on the separation from the employment.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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