

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KOKOU M YOVONOU
Claimant

APPEAL 16A-UI-05813-SC

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 10/25/15
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.22(3) – Able & Available – Earnestly and Actively Seeking Work

STATEMENT OF THE CASE:

Koukou M. Yovonou (claimant) filed an appeal from the May 20, 2016, (reference 04), unemployment insurance decision that denied benefits for week beginning April 17, 2016 and ending April 23, 2016 as the claimant did not make an adequate work search. After due notice was issued, a hearing was held in Davenport, Iowa at 9:00 a.m. on July 26, 2016. The claimant participated through Interpreter Craig Roalson.

ISSUES:

Is the claimant able to and available for work?

Did the claimant perform an adequate work search as required?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Labor Services at John Deere during the week of April 17, 2016. He worked 40 hours that week and earned \$10.50 an hour. He did not conduct a work search that week.

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. Benefits are denied.

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.

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.

The claimant was not available for work the week of April 17, 2016. He was working and removed from the labor market. He was also not seeking work for that week and conducted no work search. The claimant is not eligible for benefits for the week ending April 23, 2016.

DECISION:

The May 20, 2016, (reference 04) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 17, 2016. Benefits are denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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