

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

<b>MERCEDES TORRES ROMERO</b> Claimant  <b>IOWA WORKFORCE DEVELOPMENT DEPARTMENT</b>	<div>68-0157 (9-06) - 3091078 - EI</div> <div><b>APPEAL NO: 15A-UI-01509-DT</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b></div> <div><b>OC: 12/14/14</b> <b>Claimant: Appellant (2)</b></div>
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Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Mercedes Torres Romero (claimant) appealed a representative's January 7, 2015 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits because she was not legally authorized to work in the United States. The decision did not name Premium Iowa Pork, L.L.C. (employer) as an interested party, but a courtesy copy of this decision is also being sent to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 19, 2015. This appeal was consolidated for hearing with three related appeals, 15A-UI-01139-DT, 15A-UI-02354-DT, and 15A-UI-02355-DT. The parties waived formal notice of hearing so that all issues regarding the claimant's availability for work as well as her separation from employment could be considered and resolved in the hearing. The claimant participated in the hearing. Olga Esparza served as interpreter. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The claimant is a permanent resident of the United States. She had a valid Employment Authorization Card ("Green Card"), but that card expired on November 3, 2014, despite the fact that the claimant had made an application for renewal of the authorization on August 1, 2014, the earliest she could make her application for renewal.

The claimant ultimately was issued a new Employment Authorization Card which indicated that it was valid from October 14, 2014. Agency records show that another representative's decision was issued on February 13, 2014 (reference 05), also a one-party decision including only the claimant, which found that the claimant's employment authorization had been verified and that she was eligible to receive unemployment insurance benefits as of December 14, 2014, the effective date of the claimant's claim for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, be available for work, and be earnestly and actively seeking work. Iowa Code § 96.4-3. "An individual who is not lawfully authorized to work within the United States will be considered not available for work." Rule 871 IAC 24.22(2)"o." The claimant's current authorization to work in the United States has now been verified, and she is eligible to receive unemployment insurance benefits if she is otherwise eligible.

**DECISION:**

The representative's January 7, 2015 decision (reference 02) is reversed to be consistent with the decision subsequently issued on February 13, 2015 (reference 05). The claimant is authorized to work, and is therefore able and available for work. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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