

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

OLIVIA M DAVID
Claimant

APPEAL 21A-UI-08207-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/08/19
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

On March 18, 2021, Olivia M. David (claimant) filed an appeal from the March 17, 2021, reference 02, unemployment insurance decision that denied benefits effective January 31, 2021, based upon the determination she lacked daycare and was not able to or available for work. After due notice was issued, a telephone conference hearing was scheduled to be held on May 8, 2021. The claimant participated. No exhibits were offered into the record.

ISSUE:

Is the claimant able to work, available for work, and actively and earnestly seeking work effective January 31, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was working full-time during her base period. She has been looking for full-time work. The claimant does have young children, but she and her husband work on opposite shifts to cover childcare. He has the flexibility to change his shift, when she gets a job, if necessary.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work, available for work, and made an earnest search for work for the period in question. Benefits are allowed effective January 31, 2021.

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 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 provides, in relevant part:

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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

...

(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 provides, in relevant part:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

...

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

...

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

An individual claiming benefits has the burden to prove that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant has established that she has adequate childcare. Accordingly, benefits are allowed.

DECISION:

The March 17, 2021, reference 02, unemployment insurance decision is reversed. The claimant is able to work and available for work effective January 31, 2021. Benefits are allowed.



Stephanie R. Callahan
Administrative Law Judge

May 24, 2021
Decision Dated and Mailed

src/ol