

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH L BROWN
Claimant

APPEAL NO. 14A-UI-05233-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINEGARDNER & HAMMONS
Employer

OC: 04/20/14
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 15, 2014, reference 01, which denied unemployment insurance benefits as of April 20, 2014 finding the claimant was not able to perform work and did not meet the availability requirements of the law. After due notice was provided, a telephone hearing was held on June 10, 2014. Claimant participated. Although duly notified, the employer did not participate.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Kenneth Brown began employment with the captioned employer d/b/a Cedar Rapids Marriott in 1988. Mr. Brown continues to be employed at the time of hearing. Mr. Brown works as a full-time lead cook and is paid by the hour.

On March 20, 2014, Mr. Brown was taken off work by a medical practitioner because of vertigo. Mr. Brown received medical treatments for his condition. On April 17, 2014, Mr. Brown met with his medical practitioner and was determined to be able to return to work effective April 21, 2014. (See Claimant's Exhibit One) Mr. Brown returned to work on a part-time basis working approximately 15 hours per week. Mr. Brown continues to work in a part-time status at the time of hearing.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant was able and available for work effective April 20, 2014. It does.

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".

The evidence in this matter establishes that the claimant was released to return to his regular employment working part time effective April 21, 2014. Mr. Brown was released by his medical practitioner to return to part-time work effective April 21, 2014.

The administrative law judge concludes based upon the evidence in the record the claimant meets the requirement that he is able to work. Claimant is eligible to receive partial unemployment insurance benefits each week that he has claimed unemployment insurance benefits and meets all other eligibility requirements of the law.

DECISION:

The representative's decision dated May 15, 2014, reference 01, is reversed. Claimant is able and available for work effective April 20, 2014 and is eligible to receive unemployment insurance benefits, providing that he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs