

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**JEFFREY S MOREHEAD**  
Claimant

**APPEAL NO. 18A-UI-05803-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MENARD INC**  
Employer

**OC: 04/15/18**  
**Claimant: Respondent (2R)**

Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Menard (employer) appealed a representative's May 14, 2018, decision (reference 01) that concluded Jeffrey Morehead (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 12, 2018. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Kim Clark, Assist General Manager. The employer offered and Exhibit 1 was received into evidence.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work. .

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 23, 2015, as a full-time manager trainee. Soon after, he became a full-time assistant department manager in the Cedar Rapids, Iowa, location. Effective January 7, 2018, at the claimant's request, he went to part-time with a reduction in salary to become a sales team member. On January 15, 2018, the claimant transferred to the Iowa City, Iowa, store and continued his work as a part-time sales team member.

On April 15, 2018, the claimant filed for unemployment insurance benefits. His hours remained consistent. For the two-week period ending April 28, 2018, the claimant did not file his weekly report and, therefore, received no unemployment insurance benefits.

On May 20, 2018, the claimant requested and was granted a change to full-time status. The employer's schedule was printed two weeks in advance and could not be changed immediately. Employees could ask for and more hours were always available. For the week ending May 26, 2018, the claimant worked 25.65 hours and reported wages of \$290.00 to Iowa Workforce Development. Additional hours were available but the claimant did not request more work. The claimant also received \$228.00 in unemployment insurance benefits for the week ending May 26, 2018.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is not able and available for work.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(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.

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.

When an employee limits his hours for a particular reason, he is considered to be unavailable for work. In this case, the claimant limited his hours as of January 7, 2018. He is considered to be unavailable for work from April 15, to May 26, 2017, because he unjustifiably limited his hours.

As of May 27, 2018, the claimant was working full-time for the employer. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for other work while working for the employer.

The issue of whether the claimant was overpaid unemployment insurance benefits is remanded for determination.

**DECISION:**

The representative's May 14, 2018, decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work as of April 15, 2018.

The issue of whether the claimant was overpaid unemployment insurance benefits is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs