

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON HARRIS
Claimant

L A LEASING INC
Employer

APPEAL 16A-UI-04441-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/13/16
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

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 12, 2016, (reference 04) unemployment insurance decision that denied benefits based upon not being able to or available for work. The parties were properly notified about the hearing. A telephone hearing was held on April 29, 2016. Claimant participated. Employer participated through unemployment benefits administrator Colleen McGuinty, and branch managers Joe Vermeulen and Julie Thill. Claimant's Exhibit A was received. The administrative law judge took official notice of the administrative record, including fact-finding documents.

ISSUE:

Is the claimant able to work and available for work effective March 13, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: He last worked for Sedona on March 3 and removed his phone number from his Sedona profile for a while because it was disconnected but had his e-mail listed. His phone was connected from March 7 through 11. He was not available for work on March 4 due to personal reasons. Even after being instructed to do so in the fact-finding interview he did not directly contact Sedona or Nordstrom contacts about available work or stating specifically how he may be contacted. Claimant had public bus transportation to get to their office or to work, and IWD internet and telephone available to him to use to communicate with Sedona to arrange for available work assignment.

He moved to his current address in October 2015. The employer sent him a letter to his current address about available work on March 13, and again on March 28 after trying to reach him by phone on March 14, 21, 22 and 28, it was not accepted although was tracked as delivered on April 20.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work, and did not seek available work for the period in question.

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(27) provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

Iowa Admin. Code r. 871-24.23(96) provides:

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

(12) If a claimant is in jail or prison, such claimant is not available for work.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant failed to provide accurate contact information or maintain communication with Sedona who had provided the most consistent work to him. By this inaction and his failure to apply for known available work, he has not established that he is genuinely attached to the labor market. Accordingly, he is not eligible for unemployment insurance benefits.

DECISION:

The April 12, 2016, (reference 04) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective March 13, 2016. Benefits are withheld until the claimant establishes his ability to work, availability for work, and his earnest and active search for work.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs