IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

DEMONTAE J CLARK
Claimant

**IOWA WORKFORCE DEVELOPMENT
  DEPARTMENT**

APPEAL 18A-UI-11868-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/09/18
Claimant: Appellant (2)**

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 December 3, 2018, (reference 03), unemployment insurance decision that denied benefits based upon claimant's ability to and/or availability for work. After due notice was issued, a telephone conference hearing was scheduled to be held on December 26, 2018. Claimant participated.

ISSUE:

Is the claimant able to work and available for work during the one week ending November 17, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was able to and available for work during the one week ending November 17, 2018. Claimant mistakenly indicated that he was not able to and available for work when making his continued weekly claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

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(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.

Claimant has no medical restriction or other limitation on his employability during the one week ending November 17, 2018. Accordingly, benefits are allowed.

DECISION:

The December 3, 2018 (reference 03) decision is reversed. The claimant was able to work and available for work during the one week ending November 17, 2018. Benefits are allowed.

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Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn