

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**MARCUS D HUGHES**  
Claimant

**APPEAL NO. 19A-UI-04211-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 02/17/19**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Marcus Hughes (claimant) appealed a representative's May 13, 2019, decision (reference 04) that concluded he was on vacation and not able and available and available for work from April 14 to April 27, 2019. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on June 24, 2019. The claimant participated personally.

**ISSUE:**

The issue is whether the claimant is able and available for work from April 14 to April 27, 2019.

**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 mailed a notice to report for RESEA training and did not receive the notice until after the date of the training. His claim for unemployment insurance benefits was locked on April 19, 2019. He reported the discrepancy to the Agency on May 8, 2019, and his claim was unlocked. A worker mistakenly reported the reason for his not attending training as the claimant being on vacation for two weeks rather than the claimant not receiving notice of the training. The claimant had not been on vacation and did not tell a worker he had been on vacation. The claimant was disqualified from receiving unemployment insurance benefits from April 14 to April 27, 2019.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work from April 14 to April 27, 2019.

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".

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed from April 14 to April 27, 2019, provided the claimant is otherwise eligible.

**DECISION:**

The representative's May 13, 2019, decision (reference 04) is reversed. The claimant is able and available for work from April 14 to April 27, 2019.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs