

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NELSON J CRUZ
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO. 20A-UI-01983-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/20
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 20, 2020 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on March 24, 2020. Claimant participated personally. Claimant waived time and notice for the hearing

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: When claimant filled out his weekly claim for the week of January 26 - February 1, 2020, he stated that he was not able and available for work. This was claimant's first weekly claim filled out since his filing of his original claim. Claimant was confused as to what was being asked in the able and available question. Claimant believed that being able and available for work meant he had a job, so he stated that he was not able and available for work as he did not have a job.

Claimant was in fact able and available for work during this week and simply misinterpreted the question. Claimant was earnestly and actively seeking work during this period.

REASONING AND CONCLUSIONS OF LAW:

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(1)a 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.

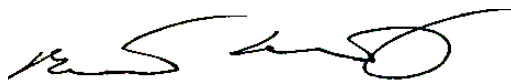
(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

The claimant has established the ability to work. Benefits shall be allowed effective January 26, 2020.

DECISION:

The decision of the representative dated February 20, 2020, reference 02 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective January 26, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

March 26, 2020
Decision Dated and Mailed

bab/scn