

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

SHAWN WEST
Claimant

APPEAL NO. 19A-UI-06430-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PEOPLEREADY INC
Employer

OC: 07/21/19
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Shawn West filed a timely appeal from the August 12, 2019, reference 05, decision that denied benefits effective July 21, 2019, based on the deputy's conclusion that Mr. West was unavailable for work due to a loss of transportation. After due notice was issued, a hearing was held on September 5, 2019. Mr. West participated. Ashley Malloy represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 19A-UI-06429-JTT. The administrative law judge took official notice of Mr. West's weekly claims (KCCO).

ISSUE:

Whether Mr. West has been able to work and available for work since he established the original claim for benefits that was effective July 21, 2019.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Shawn West established an original claim for benefits that was effective July 21, 2019. As of the September 5, 2019 appeal hearing date, Mr. West had made weekly claims for each of the six weeks between July 21, 2019 and August 31, 2019. Mr. West has at all relevant times resided in Hiawatha. Mr. West usually works in the Cedar Rapids area. Mr. West lacks a driver's license and uses public transit as his primary source of transportation. Mr. West has a bus pass and is able to use the bus to get around the Cedar Rapids area between 6:00 a.m. and 7:00 p.m., Monday through Saturday. Mr. West's brother has a vehicle and is available to supplement Mr. West's transportation needs in the Cedar Rapids area. Mr. West established his claim for benefits in response to a July 22, 2019 involuntary separation from employer PeopleReady. PeopleReady has traditionally provided Mr. West with day-labor assignments in the Cedar Rapids area. Mr. West most recently performed day-labor for PeopleReady at an apartment complex in Iowa City on July 19, 20 and 22, 2019. For the first couple days, Mr. West was able to get a ride with a coworker. On the last day, Mr. West caught a bus to Iowa City so that he could perform work in the assignment. During each week of the claim, Mr. West has been able to work and has been available for work in the Cedar Rapids area. For each week of the claim, Mr. West had made at least two job contacts in the Cedar Rapids area.

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(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(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

Mr. West has been able to work and available for work within the meaning of the law since he established the claim for benefits that was effective July 21, 2019 and through the benefit week

that ended August 31, 2019. Mr. West usual labor market encompasses the entire Cedar Rapids metropolitan area. Mr. West has remained available for work in that area and his transportation situation does not prevent him from being available for work in the Cedar Rapids area. When Mr. West encountered an obstacle to getting to an Iowa City assignment, an area well outside his usual labor market, he took extraordinary steps to work around the problem. Mr. West is eligible for benefits for the period of July 21, 2019 through August 31, 2019, provided he meets all other eligibility requirements.

DECISION:

The August 12, 2019, reference 05, decision is reversed. The claimant has been able to work and available for work within the meaning of the law since he established the claim for benefits that was effective July 21, 2019 and through the benefit week that ended August 31, 2019. The claimant is eligible for benefits for the period of July 21, 2019 through August 31, 2019, provided he meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs