

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUSSELL R WILLIAMS

Claimant

APPEAL NO: 13A-UI-07185-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 05/26/13

Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Russell R. Williams (claimant) appealed a representative's June 12, 2013 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was not able and available for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 22, 2013. This appeal was consolidated for hearing with one related appeal, 13A-UI-07184-DT. The claimant participated in the hearing. Penny Torczon appeared on behalf of Casey's Marketing Company (employer). Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant started working for the employer on May 25, 2005. He worked part time as a pizza maker and donut maker. He normally worked from 10:00 a.m. to 1:00 p.m. on Wednesdays, Thursdays, and Fridays, and from 4:00 a.m. to 8:00 a.m. on Saturdays and Sundays. In mid-April the claimant requested to change his availability to two days per week during the summer so that he could babysit his children during that time.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. A claimant must remain available for work on the same basis as when his base period wages were accrued. 871 IAC 24.22(2)f.

The claimant was not making himself available for work on the same basis as when his base period wages were accrued, but was limiting himself to only two of those days per week. He is presently not able and available for work, and is presently not eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 12, 2013 decision (reference 02) is affirmed. The claimant is not able to work and available for work effective May 26, 2013. The claimant is not eligible to receive unemployment insurance benefits until the restrictions on his availability are lifted, if he is then otherwise qualified.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs