

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**JESUS S RODRIGUEZ**  
Claimant

**QUAD COUNTY AG LLC**  
Employer

**APPEAL 17A-UI-11956-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/04/17**  
**Claimant: Respondent (3)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence

**STATEMENT OF THE CASE:**

The employer filed an appeal from the November 16, 2017, (reference 01) unemployment insurance decision that denied benefits as of October 29, 2017. The parties were properly notified about the hearing. A telephone hearing was held on December 13, 2017. Claimant participated. CTS Language Link interpreter ID number 8725 interpreted on claimant's behalf. The employer did not register for the hearing and did not participate. Although the employer appealed the decision and did not participate, claimant requested to proceed with the appeal hearing because the decision had denied him benefits; a telephone hearing was held on December 13, 2017. Official notice was taken of the administrative record with no objection.

**ISSUES:**

Is the claimant able to work and available for work effective October 29, 2017?

Is the claimant of an approved leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant had been working for the employer for approximately four years. Claimant was employed full-time with the employer as a foreman. Around October 29, 2017, claimant was laid off by the employer due to a lack of work. Claimant did not request to take a leave of absence from the employer. Claimant was able to and available to work if the employer had work available after he was laid off by the employer. During the week of November 12, 2017, the employer sent claimant to work for another company RDA LLC as a foreman. Claimant started working full-time for RDA LLC during the week of November 12, 2017. Claimant is currently working for RDA LLC.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that claimant was able to work and available for work from October 29, 2017 to November 11, 2017. The administrative

law judge further concludes claimant is not able to and available for work effective November 12, 2017.

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:

**Benefit 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(23) provides:

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

**(23)** The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

An individual claiming benefits has the burden of proof that they are able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. Prior to October 29, 2017, claimant was employed full-time by the employer. Around October 29, 2017, claimant was laid off by the employer due to a lack of work. While claimant was on layoff, he was able to and available for work until the week beginning November 12, 2017. Starting the week beginning November 12, 2017, the employer sent claimant to work full-time for RDA LLC. Claimant continues to work full-time for RDA LLC. As a full-time employee for RDA LLC,

“claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.” Iowa Admin. Code r. 871-24.23(23).

Therefore, claimant was able to and available for work from October 29, 2017 to November 11, 2017. Benefits are allowed from October 29, 2017 to November 11, 2017. Claimant is not able to and available for work effective November 12, 2017 because he is working full-time for RDA LLC. Benefits are denied effective November 12, 2017.

**DECISION:**

The November 16, 2017, (reference 01) unemployment insurance decision is modified in favor of the respondent/claimant. Claimant is able to work and available for work from October 29, 2017 to November 11, 2017. Benefits are allowed from October 29, 2017 to November 11, 2017. Claimant is not able to and available for work effective November 12, 2017. Benefits are denied effective November 12, 2017.

---

Jeremy Peterson  
Administrative Law Judge

---

Decision Dated and Mailed

jp/rvs