

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KATHLEEN L WILSON**  
Claimant

**APPEAL 19A-UI-07814-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 06/02/19**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

On October 4, 2019, Kathleen L. Wilson (claimant) filed an appeal from the September 30, 2019, reference 02, unemployment insurance decision that denied benefits based upon the determination she was not being able to and available for work for the week-ending September 14, 2019. After due notice was issued, a telephone conference hearing was set for October 25, 2019 and was consolidated with the hearing for appeals 19A-UI-07815-SC-T and 19A-UI-08206-SC-T. The claimant participated. The Claimant's Exhibit A was admitted into the record. The administrative law judge took official notice of the fact-finding documents related to the September 30, 2019, reference 03, unemployment insurance decision.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending September 14, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed her original claim for benefits effective June 2, 2019. She filed a weekly continued claim for benefits for the week ending September 14 and accidentally reported she was not able to and available for work. The claimant was in her normal job market that week, had transportation, and did not have any medical or personal issues that prevented her from working. The claimant also made two work searches that week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was able to work, available for work, and made an earnest search for work during the week ending September 14, 2019. Benefits are allowed.

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 provides, in relevant part:

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.

...

(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.

An individual claiming benefits has the burden of proof to show that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. In this case, the claimant accidentally reported she was not able to and available for work. She has

established that she was able to and available for work during the week in question. Benefits are allowed for the week ending September 14, 2019.

**DECISION:**

The September 30, 2019, reference 02, unemployment insurance decision is reversed. The claimant was able to work and available for work during the week ending September 14, 2019. Benefits are allowed.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

src/scn