

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TODD A WADE
Claimant

APPEAL 17A-UI-05080-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/12/17
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 11, 2017, (reference 06) unemployment insurance decision that denied benefits based upon claimant's unavailability for work. After due notice was issued, a hearing was held by telephone conference call on May 30, 2017. Claimant participated.

ISSUE:

Is the claimant able to work and available for work from April 23, 2017, through May 6, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was under evaluation and unable to work from April 24 through April 28, 2017. Claimant was unable to participate in a fact finding interview on April 24, 2017. Claimant was released to return to work effective May 5, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work from April 24 through May 9, 2017.

Iowa Code § 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".

The burden is on the claimant to establish that he is eligible for benefits within the meaning of the statute. Iowa Code § 96.6(2); 871 IAC 24.22; *Davoren v. Iowa Employment Sec. Comm'n*, 277 N.W.2d 602, 603 (Iowa 1979).

In this case, the only credible information available to the administrative law judge indicates claimant was not able to or available for work during the two weeks ending May 6, 2017. Therefore, claimant must be denied benefits during these two weeks.

DECISION:

The May 11, 2017, (reference 06) unemployment insurance decision is affirmed. The claimant is not able to work and available for work from April 23, 2017, through May 6, 2017. Benefits are denied.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn