

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DANIEL L AVERY
Claimant

LABOR READY MIDWEST INC
Employer

APPEAL NO. 15A-UI-09318-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/26/15
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 13, 2015 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on September 2, 2015. Claimant participated personally. Employer participated by Megan Papesh.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was between jobs with employer when he filed for unemployment. Subsequent to his filing, claimant refused work on two dates when it was offered because he had to attend to personal/family matters. Other than those two dates – August 3, 2015 and August 11, 2015 claimant continued to contact employer and hold himself out as able and available for work. On or about August 21, 2015 claimant secured full-time employment with another employer.

REASONING AND CONCLUSIONS OF LAW:

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".

Inasmuch as claimant continued to hold himself out as able and available for work, claimant is eligible for benefits for those days when he held himself out as available to work. Benefits shall be allowed effective July 26, 2015 through August 21, 2015, with the exception of August 3, 2015 and August 11, 2015 when claimant was not available for work.

DECISION:

The decision of the representative dated August 13, 2015, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective July 26, 2015, with the exception of the dates of August 3, 2015 and August 11, 2015, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs