

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY J PAULSEN
Claimant

APPEAL NO. 16A-UI-01430-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NPC INTERNATIONAL INC
Employer

OC: 01/10/16
Claimant: Appellant (1)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Randy Paulsen filed a timely appeal from the January 29, 2016, reference 02, decision that denied benefits effective January 10, 2016, based on an Agency conclusion that he was unduly restricting his availability for work. After due notice was issued, a hearing was held on March 2, 2016. The hearing in this case was consolidated with the hearing in Appeal Number 16A-UI-01598-JTT. Claimant Randy Paulsen participated and presented additional testimony through Ron Hanson. Lyle McElfresh represented the employer and presented additional testimony through Melissa Quesada. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which record indicates that no benefits have been disbursed to the claimant in connection with the claim. Exhibits One, Two, A, B and C and Department Exhibits D-1, D-2 and D-3 were received into evidence.

ISSUES:

Whether the claimant was able to work and available for work during the three-week period of January 10, 2016 through January 30, 2016.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Randy Paulsen established a claim for benefits that was effective January 10, 2016. Mr. Paulsen made weekly claims for the weeks that ended January 16, 23 and 30, 2016. Mr. Paulsen then discontinued his claim because he had been offered new employment. For each of the three weeks that Mr. Paulsen claimed benefits, he made two or more job contacts. Mr. Paulsen focused on businesses within short walking distance of his home. On January 28, 2016, Mr. Paulsen participated in a fact-finding interview held by a Workforce Development claims deputy. At the time of the fact-finding interview, Mr. Paulsen told the claims deputy that he was only able to work in the medical field as a phlebotomist and was only willing to walk one to three blocks to get to work because he lacked other transportation.

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".

Iowa Admin. Code r. 871-24.23(3) provides:

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

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code § 96.4(3).

Iowa Admin. Code r. 871-24.23(18) provides:

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

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

The claimant's statement to the claims deputy at the time of the January 28, 2016 fact-finding interview was rather specific. There would be no reason for the claims deputy to document the statement that Mr. Paulsen was only willing to walk one to three blocks to work if Mr. Paulsen had not uttered the statement. Likewise, there would be no reason for the claims deputy to document the restriction on the type of work Mr. Paulsen was available for had Mr. Paulsen not uttered the comment. The weight of the evidence indicates that despite Mr. Paulsen's success in locating new employment, he was indeed unduly restricting his work search during the three weeks during which his claim was active. For that reason, Mr. Paulsen did not meet the work availability requirement during the three-week period of January 10-30, 2016 and is not eligible for benefits for those weeks.

DECISION:

The January 29, 2016, reference 02, is affirmed. The claimant unduly restricted his work availability during the three-week period of January 10-30, 2016 and is not eligible for benefits for that period.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs