

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT J FOLSOM
Claimant

APPEAL NO: 18A-UI-07866-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/15/18
Claimant: Appellant (2R)

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 appealed an unemployment insurance decision dated July 17, 2018, (reference 05), that concluded he was ineligible for unemployment insurance benefits. A telephone hearing was held on August 14, 2018. Proper notice of the hearing was given to the claimant. The hearing was held jointly with Appeal: 18A-UI-07867-JC-T. The claimant participated in the hearing. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant able to work and available for work June 17 through June 23, 2018?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 15, 2018. When the claimant made his weekly continued claim online for the week ending June 23, 2018, he clicked the button stating he was not able to and available for work that week. That was an error. The claimant was actively seeking employment and was able to and available for work for the week ending June 23, 2018.

On June 26, 2018, the claimant began new employment with CSJ Lab in South Sioux City. He earned wages in the amount of \$91.00 for the week ending June 30, 2018. He did not report the wages when he made his weekly continued claim for benefits for the week ending June 30, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work for the week ending June 23, 2018.

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. 871-24.22(2) provides:

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.

(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.

The claimant in this case reported in error that he was not able to and available for work for the week ending June 23, 2018. The claimant has satisfactorily established that he was able to, available for and earnestly searching for work for the week ending June 23, 2018. Accordingly, benefits are allowed, provided he is otherwise eligible.

DECISION:

The unemployment insurance decision dated July 17, 2018, (reference 05), is reversed. The claimant was able to and available for work for the week ending June 23, 2018. Benefits are allowed for this week, provided he is otherwise eligible.

REMAND: The issue of claimant's unreported wages to his weekly continued claim for the week ending June 30, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development so that his claim can be updated and accurate.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn