

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERIK D BELL
Claimant

APPEAL 18A-UI-02290-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/30/17
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 February 5, 2018, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 15, 2018. The claimant participated and testified.

ISSUE:

Was the claimant able to work and available from January 7, 2018 through January 13, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was unemployed the week of January 7, 2018. When claimant went to make his continued weekly claim, he mistakenly indicated he was not able to and available for work. Claimant testified this error was because he had been experiencing severe flu symptoms over the last ten days, including the week of January 7, 2018. Claimant conceded that, had he been offered work the week of January 7, he would have been too ill to work.

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.

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(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.

Iowa Admin. Code r. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

Since claimant was unable to perform work due to illness for the week of January 7, 2018, he has not established his ability to or availability for work that week. Accordingly, benefits are withheld for the week beginning January 7, 2018 and ending January 13, 2018.

DECISION:

The February 5, 2018, (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work from January 7, 2018 to January 13, 2018. Benefits are denied for the week in question.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs