

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICHOLAS R SUER
Claimant

APPEAL 17A-UI-06914-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/22/17
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the July 6, 2017 (reference 02) unemployment insurance decision that found claimant was ineligible for unemployment benefits from June 11, 2017 through June 17, 2017 due to being in the hospital and unable to work. The claimant was properly notified of the hearing. A telephone hearing was held on July 26, 2017. The claimant, Nicholas R. Suer, participated personally. Claimant's Exhibit A was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUE:

Was the claimant able to work and available for work from June 11, 2017 through June 17, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The facts in this matter are undisputed. Claimant was hospitalized from May 17, 2017 through May 19, 2017. See Exhibit A. Claimant was not hospitalized during the week ending June 17, 2017 and was able to and available for work that week. Claimant was earnestly and actively seeking work for the week ending June 17, 2017.

There has been no initial investigation and determination regarding whether claimant was able to and available for work the week he was actually in the hospital. The questions of whether the claimant was able to and available for work the week ending May 20, 2017 and whether claimant has been overpaid benefits for that week will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work from June 11, 2017 through June 17, 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Claimant has established his ability to work the week ending June 17, 2017. Claimant was available for work and earnestly and actively seeking work the week ending June 17, 2017.

DECISION:

The July 6, 2017 (reference 02) unemployment insurance decision is reversed. The claimant was able to and available for work from June 11, 2017 through June 17, 2017. Benefits are allowed for the week ending June 17, 2017, provided he is otherwise eligible.

REMAND: Whether claimant was able to and available for work for the week ending May 20, 2017 and whether claimant has been overpaid benefits for the week ending May 20, 2017 as delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs