

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PHILIP M GAEDE**  
Claimant

**HENDERSON WORKFORCE LLC**  
Employer

**APPEAL 17A-UI-00187-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/11/16**  
**Claimant: Respondent (1)**

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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 employer filed an appeal from the January 3, 2017, (reference 02) unemployment insurance decision that determined claimant was able to work and available for work. The parties were properly notified of the hearing. A telephone hearing was held on January 27, 2017. The claimant, Philip M. Gaede, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, Henderson Workforce, L.L.C., participated through Elliott Henderson.

**ISSUE:**

Is the claimant able to work and available for work effective December 11, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a laborer, until November 2015, when claimant left his employment to move out of state. Henderson has not had any contact with the claimant since he left his employment. Henderson has no reason to believe claimant is not currently able to work and available for work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is able to work and available for work. Benefits are allowed, provided claimant is otherwise eligible.

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.

Here, the employer had no information about claimant's current employment status, availability, or work searches. Claimant has not worked for this employer in over a year, and this employer's account is not currently (as of the date of this decision) being charged for benefits. Benefits are allowed, provided claimant is otherwise eligible.

**DECISION:**

The January 3, 2017, (reference 02) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective December 11, 2016. Benefits are allowed.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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