

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICOLE L THOMPSON
Claimant

APPEAL 18A-UI-05001-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 02/11/18
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the April 20, 2018, (reference 02) decision that denied benefits finding the claimant was not able to and available for work due to loss of transportation. After due notice was issued, a hearing was held by telephone conference call on May 17, 2018. Claimant participated.

ISSUE:

Was the claimant able to and available for work for the period from February 11, 2018 through March 31, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In the past the claimant has relied upon the city bus service, walking, family members, friends and coworkers for transportation to and from work. She had a car accident in February. She took an Uber to work one day and borrowed her Mother's car another day and took the bus on another occasion. The claimant made arrangements to get to and from work while her car was being repaired.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is 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. 871-24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

The claimant did lose her car for the period from February 11, through March 31. However, during that time period she was able to make other arrangements in order to get to and from work. She has in the past demonstrated an ability to use the bus system and to ride to and from work with coworkers. Under these circumstances the administrative law judge finds the claimant did have adequate alternative transportation during the five weeks ending March 31, 2018. Thus she is considered able to and available for work during that time period. Accordingly, benefits are allowed.

DECISION:

The April 20, 2018, (reference 02) decision is reversed. The claimant is able to work and available for work effective February 11, 2018. Benefits are allowed, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs