

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA CASTRO SANTIAGO
Claimant

APPEAL NO: 14A-UI-06249-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/08/13
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 23, 2014, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 10, 2014. The claimant participated in the hearing with Interpreter Ike Rocha. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issues are whether the claimant's appeal is timely and whether she is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on May 23, 2014. The claimant received the decision May 30, 2014. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 2, 2014. The appeal was not filed until June 16, 2014 which is after the date noticed on the disqualification decision. The claimant does not speak English and did not have anyone to translate the representative's decision for her. She went to Workforce but the employee who speaks Spanish and has helped her in the past was on vacation and not available. The claimant returned to Workforce and filed her appeal when the Spanish speaking employee returned. Under these circumstances, the administrative law judge finds the claimant's appeal is timely.

The claimant was previously working on a work visa. She received her permanent resident card February 14, 2014, (Claimant's Exhibit A). The claimant has provided proof that she is legally authorized to work in the United States and consequently is considered able and available for work. Therefore, benefits are allowed.

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 § 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".

The claimant provided proof, in the form of her permanent resident card issued February 14, 2014, that she is in the United States legally. Therefore, she is considered able and available for work. Accordingly, benefits are allowed.

DECISION:

The May 23, 2014, reference 03, decision is reversed. The claimant is able to and available for work effective September 8, 2013. Benefits are allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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