

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JAMIE M LLEWELLYN
Claimant

APPEAL NO: 18A-UI-04643-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHNEIDER NATIONAL CARRIERS INC
Employer

OC: 03/04/18
Claimant: Appellant (2R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jamie Llewellyn (claimant) appealed a representative's April 9, 2018, decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he was waiting for specific work with Schneider National Carriers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 8, 2018. The claimant participated personally. On April 24, 2018, the employer notified the Appeals Bureau that it would not participate in the hearing. Exhibit D1 was received into evidence.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits as of March 4, 2018.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 25, 2017, as a full-time dedicated local driver out of Ankeny, Iowa. As of February 27, 2018, the employer had no more work for the claimant of that type. The employer asked the claimant to try working out of Shakopee, Minnesota, for a week and see how he liked it. The claimant did not like living in motels away from his family for a week. He was willing to work for the employer in any capacity near home. The employer had no other work for the claimant near Ankeny, Iowa. The claimant filed for unemployment insurance benefits with an effective date of March 4, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work as of March 4, 2018.

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".

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

The issue of the claimant's separation from employment is remanded for determination.

DECISION:

The representative's April 9, 2018, decision (reference 03) is reversed. The claimant is able and available for work as of March 4, 2018. Benefits are allowed, provided the claimant is otherwise eligible.

The issue of the claimant's separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs