

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SIMON NDAYISENGA
Claimant

APPEAL 15A-UI-11205-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SDH SERVICES WEST LLC

**OC: 08/09/15
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 1, 2015, (reference 06) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 21, 2015. Claimant participated. Employer did not participate.

ISSUE:

Is the claimant able to and available for work effective September 13, 2015?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was separated from his last job on August 12, 2015. He has been allowed benefits based upon his separation. The claimant and his wife have four small children ages, six years, three years, two years and five months old. After he lost his job the claimant's wife returned to work. The claimant stopped making job searches and did not have any child care for his children if he was offered a job. The claimant became the primary care provider for his children until October 14, 2015 when his wife stopped working.

The claimant is now attending school but has not sought Department Approved Training (DAT) so that he can be relieved of his obligation to make job searches while in training. During the hearing the claimant was instructed to go to his local Iowa Workforce Development office to apply for DAT and to explain that he now has alternate child care arrangements as of October 14, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective September 13, 2015 through October 14, 2015.

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", unnumbered paragraph 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".

Iowa Admin. Code r. 871-24.23(3) provides:

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

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code § 96.4(3).

The claimant was not making job searches as he was staying home providing child care to his four young children. Under such circumstances the claimant is not considered able to and available for work. The claimant has made provision for child care effective October 14, 2015. Thus the claimant is allowed benefits effective October 14, 2015, provided he is otherwise eligible.

DECISION:

The October 1, 2015, (reference 06) decision is modified in favor of the appellant. The claimant is not able to work and available for work effective from September 13, 2015 through October 14, 2015. Benefits are denied for that time period. Effective October 15, 2015, benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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