

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDITH TARPEH
Claimant

APPEAL NO. 16A-UI-05121-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/03/16
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Edith Tarpeh filed a timely appeal from the April 28, 2016, reference 04, decision that denied benefits effective April 3, 2016, based on an Agency conclusion that she had not provided proof that she was a United States citizen or legally authorized to work in the United States. A hearing was set for May 17, 2016. Based on action taken by the Appeals Bureau, the administrative law judge concluded that a hearing was unnecessary and that a decision could be entered based on the Agency administrative records.

ISSUES:

Whether the claimant has been able to work and available for work effective April 3, 2016.

Whether the claimant has provided proof that she is authorized to work in the United States.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On April 28, 2016, a Workforce Development representative entered a reference 04 decision that denied benefits effective April 3, 2016, based on an Agency conclusion that Edith Tarpeh had not provided proof that she was a United States citizen or legally authorized to work in the United States. On May 17, 2016, a Workforce Development representative entered a reference 06 decision that allowed benefits effective April 3, 2016, provided Ms. Tarpeh was otherwise eligible, based on an Agency conclusion that Ms. Tarpeh had provided proof that she was legally authorized to work in the United States.

REASONING AND CONCLUSIONS OF LAW:

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".

Based on the Benefits Bureau's reversal of its own decision, the administrative law judge concludes that the claimant has provided proof that she is authorized to work in the United States. The claimant has thereby demonstrated compliance with the work availability requirement and is eligible for benefits effective April 3, 2016, provided she meets all other eligible requirements.

DECISION:

The April 28, 2016, reference 04, decision is reversed, pursuant to the May 17, 2016, reference 06, decision. The claimant has provided proof that she is authorized to work in the United States. The claimant has thereby demonstrated compliance with the work availability requirement and is eligible for benefits effective April 3, 2016, provided she meets all other eligible requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs