

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RACHEL A SCOTT**  
Claimant

**APPEAL NO. 16A-UI-09245-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/20/16  
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Rachel Scott filed a timely appeal from the August 22, 2016, reference 02, decision that denied benefits for the week that ended August 6, 2016, based on an agency conclusion that she did not meet the able and availability requirements during that week. After due notice was issued, a hearing was held on September 9, 2016. Mr. Scott participated. The hearing in this matter was consolidated with the hearing in Appeal Number 16A-UI-09246-JTT. Exhibit A and Department Exhibits D-1 through D-4 were received into evidence.

**ISSUES:**

Whether the claimant met the able and available requirements during the week that ended August 6, 2016.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Rachel Scott established a claim for benefits that was effective March 20, 2016. When Ms. Scott made her weekly claim for the week that ended August 6, 2016, she erroneously reported that she was not able for work and/or available for work that week, but had made three employer contacts. Ms. Scott was physically and mentally able to work that week. Ms. Scott had made employer contacts with the United Way, Iowa Economic Development Authority and a mental health center.

**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".

Iowa Admin. Code r. 871-24.22(1)a and (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Ms. Scott made an error in making her weekly claim for the week that ended August 6, 2016. Ms. Scott was able to work, available for work, and engaged in an active and earnest search for new employment during that week. Ms. Scott is eligible for benefits for the week that ended August 6, 2016, provided she is otherwise eligible.

**DECISION:**

The August 22, 2016, reference 02, decision is reversed. The claimant met the able and availability requirements for the week that ended August 6, 2016. The claimant is eligible for benefits for that week, provided she meets all other eligibility requirements.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs