

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BLAKE J FRANCO

Claimant

APPEAL NO. 13A-UI-12404-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC

Employer

OC: 10/13/13

Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Fareway, filed an appeal from a decision dated November 4, 2013, reference 01. The decision allowed benefits to the claimant, Blake Franco. After due notice was issued a hearing was held by telephone conference call on November 27, 2013. The claimant participated on his own behalf. The employer participated by Store Manager Mike Hammell and Human Resources Generalist Teresa McLaughlin.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Blake Franco began employment with Fareway beginning February 9, 2008, as a full-time grocery clerk. He was suspended indefinitely on October 16, 2013, by Store Manager Mike Hammell. The claimant had been charged with simple assault in a domestic disturbance and a court date had been set for December 11, 2013.

Mr. Franco is currently suspended but is ready, willing and able to return to his regular full-time work should the employer recall him.

REASONING AND CONCLUSIONS OF LAW:

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 is able and available for work with his regular employer at any time hours would be made available to him. Under the provisions of the above Iowa Code section, he is eligible for benefits.

DECISION:

The representative's decision of November 4, 2013, reference 01, is affirmed. Blake Franco is eligible for benefits as he is able and available for work.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs