

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS L CASTEEL
Claimant

SWIFT PORK COMPANY
Employer

APPEAL 16A-UI-06994-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/15/16
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 16, 2016 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 13, 2016. Claimant participated. Employer did not participate.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant had a heart attack that has left him with a defibrillator. He currently has work restrictions that do not allow him to lift over ten pounds with his left arm and no reaching above his left shoulder.

While the claimant cannot go back to work at his former employment, he can perform any number of jobs. His work background includes extensive paperwork and documentation abilities. He has made applications for job like Walmart, convenience stores, and fast food restaurant. There are jobs in the open labor that he is physically able to perform. The claimant is willing to work any hours and shift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective May 15, 2016.

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(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.

(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.

The claimant may not be able to return to work at his former employer but he is clearly able to perform many types of work and jobs. He is actively seeking work and making applications. He is not limiting his job search to any particular shifts or hours of work. The claimant has some medical restrictions but those alone do not stop him from participating in the labor market. Under these circumstances the claimant is able to and available for work effective May 15, 2016.

DECISION:

The representative's decision dated June 16, 2016 (reference 02) is reversed. The claimant is able to work and available for work effective May 15, 2016. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/can