

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**ANITA L SPELLER**

Claimant

**APPEAL NO. 19A-UI-03751-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**

Employer

**OC: 06/10/18**

**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Anita Speller (claimant) appealed a representative's May 3, 2019, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she had no means of transportation to work with QPS Employment Group (employer) from April 14, 2019, through May 4, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 29, 2019. The claimant was represented by Hattie Holmes, Paralegal, and participated personally. The employer participated by Mai Lor, Unemployment Specialist, and Amy Shannon, Assistant Branch Manager.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment firm. The claimant was assigned to work as a full-time masker on the production line at Metokote, in Cedar Falls, Iowa, from August 21, 2018, to February 22, 2019. The employer noted in her file that the claimant did not have a vehicle and the claimant rode to work with another employee.

On April 17, 2019, the assistant branch manager offered the claimant work in Grundy Center, Iowa, thirty-two miles from the claimant's residence. The claimant told the employer she was available to work in the Waterloo/Cedar Falls, Iowa, area because there was public transportation and family. The employer had no work available in that area. On May 3, 2019, the claimant sought work again from the employer. No work was available.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not available for work due to lack of transportation.

Iowa Admin. Code r. 871-24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant has proven that she had transportation to work within the Waterloo/Cedar Falls, Iowa, area. This was her usual area of employment. She is considered to be available for work from April 14, 2019, through May 4, 2019. Benefits are allowed from April 14, 2019, through May 4, 2019, provided the claimant is otherwise eligible.

**DECISION:**

The representative's May 3, 2019, decision (reference 03) is reversed. Benefits are allowed from April 14, 2019, through May 4, 2019, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs