

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABDOULAYE SOW
Claimant

KRAFT HEINZ FOODS COMPANY
Employer

APPEAL 18A-UI-06205-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/13/18
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 1, 2018, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was not able to perform work due to injury. The parties were properly notified of the hearing. A telephone hearing was held on June 22, 2018. The claimant, Abdoulaye Sow, participated. French/English interpreter Moussad (ID number 10761) assisted with the hearing. The employer, Kraft Heinz Foods Company, did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibit A, his doctor's note, was received and admitted into the record.

ISSUE:

Is the claimant able to work and available for work effective May 13, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last employed with Kraft Foods. Claimant separated from his employment after he had an accident at work. Claimant was released to return to work by his doctor on Monday, June 11, 2018. Claimant has experience in a factory, and he has applied for factory jobs. Claimant was available for work until June 20, 2018, when he went to Africa to help care for his mother. Claimant is currently in Africa helping with his mother.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was available for work effective June 10, 2018, for one week. Benefits are allowed for that week.

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.

Iowa Admin. Code r. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

In this case claimant has presented a doctor's note stating he is released to return to work as of June 11, 2018. Claimant has established that he was available to work that week and was actively and earnestly seeking work. Benefits are allowed for the one week ending June 16, 2018. Following that week, claimant went to Africa. Claimant spent the majority of the following week out of the country, and he is in Africa indefinitely. Therefore, claimant is no longer available for work. When claimant returns to the United States and is once again available for work, he should contact his local workforce development office to update his status.

DECISION:

The June 1, 2018, (reference 02) unemployment insurance decision is modified in favor of claimant/appellant. Claimant is able to and available for work for the one week ending June 16, 2018. Benefits are allowed for that one-week period. Claimant is no longer available for work. Benefits are withheld until such time as he returns home and notifies his local workforce development office that he is available for work.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs