

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TIMOTHY M TURNER**  
Claimant

**APPEAL 15A-UI-09996-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/04/15  
Claimant: Appellant (2)**

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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 August 26, 2015, (reference 02), unemployment insurance decision that denied benefits based upon not being able to or available for work. After due notice was issued, a telephone conference hearing was scheduled to be held on September 22, 2015. Claimant participated.

**ISSUE:**

Was the claimant able to and available for work the one-week ending January 24, 2015?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was laid off due to a lack of work for one the one-week ending January 24, 2015. Claimant had to serve 12 hours in the county jail due to an Operating While Intoxicated (OWI) from 6 a.m. to 6 p.m. on Friday, January 23, 2015. He notified the employer Gansen Pumping in advance and made those arrangements after he was told there would be no work that day. He was available for all other days and hours of work that week.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work for the period in question.

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(29) and (41) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

(41) The claimant became temporarily unemployed, but was not available for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice to work, and that the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

This rule is intended to implement Public Law 96-499, Iowa Code § 96.4(3), 96.5(1), 96.6(1), 96.19(38)"c" and 96.29.

Iowa Admin. Code r. 871-24.23(96) provides:

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

**24.23(12)** If a claimant is in jail or prison, such claimant is not available for work.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Since claimant was in jail for one day but was otherwise available for work the week when he was laid off due to a lack of work, he is considered to have been available for work.

**DECISION:**

The August 26, 2015, (reference 02) unemployment insurance decision is reversed. The claimant was able to work and available for work the week ending January 24, 2015. Benefits are allowed.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs