

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JEWEL A GARRISON**  
Claimant

**APPEAL 21A-UI-05560-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAPELLO COMMUNITY SCHOOL  
DISTRICT**  
Employer

**OC: 01/03/21  
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Wapello Community School District, the employer/appellant, filed an appeal from the February 11, 2021, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 26, 2021. The employer participated through Eric Small, business manager. Mr. Garrison did not register for the hearing and did not participate.

**ISSUES:**

Is Mr. Garrison able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Garrison began working for the employer on July 29, 2019. He works as a part-time seasonal groundskeeper. His primary job is to mow grass. He usually works from late-March to mid-October of each year. Since there is no grass to mow during the other months of the year, Mr. Garrison does not work during those months. Mr. Garrison filed his claim effective January 3, 2021. He returned to work for the employer in in spring 2021.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that Mr. Garrison is not able to and available for work effective January 3, 2021.

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".

Iowa Admin. Code r. 871-24.22(1)(i) 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

Iowa Admin. Code r. 871-24.22(2) provides:

Benefit 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.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Mr. Garrison did not participate in the hearing and did not establish that he is able to and available for work. It is Mr. Garrison's burden to do so. Since Mr. Garrison has not met his burden he is not eligible for regular, state-funded unemployment insurance benefits.

## **DECISION:**

The February 11, 2021, (reference 01) unemployment insurance decision is reversed. Mr. Garrison has not established that he is able to and available for work. Benefits are denied effective January 3, 2021.



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April 30, 2021  
Decision Dated and Mailed

dz/ol