

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HIRUT G ASHAGRE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 18R-UI-07234-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/06/18
Claimant: Appellant (2)

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 May 25, 2018, (reference 01), unemployment insurance decision that denied benefits based upon a determination that claimant was not able to work due to injury. The parties were properly notified of the hearing. A telephone conference was held on July 23, 2018, and the telephone hearing occurred on August 13, 2018. The claimant, Hirut G. Ashagre, participated and Lori Strasburg with Dress for Success assisted claimant during a pre-hearing conference. Attorney Grant Beckwith with Iowa Legal Aid represented claimant for the hearing. Amharic/English interpreter Natalino (ID number 1173) from CTS Language Link provided interpretation services for the pre-hearing conference. Amharic/English interpreter Missy (ID number 2211) from CTS Language Link provided interpretation services for the hearing. Claimant's Exhibit A was received and admitted into the record.

ISSUE:

Is the claimant able to work and available for work effective May 6, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last employed as a production employee at Tyson. Claimant was released to return to work without any restrictions on April 30, 2018. Claimant is not currently under a doctor's care for any medical issues and she does not have any restrictions on her physical ability to work. Claimant is available for work. She has not been employed since she worked at Tyson, and she has not been out of town since she began filing her weekly continued claims for unemployment insurance benefits. Claimant is actively and earnestly seeking work. During the hearing, claimant provided the names of seventeen employers with whom she has applied. These employers include retail establishments, food service establishments, and home health care. Claimant has experience in these areas, and she has used a cash register and worked in healthcare in her past.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able to and available for work. Benefits are allowed.

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.

In order to be eligible for benefits, an individual filing a weekly continued claim must be able to work, available for work, and actively and earnestly seeking work. Claimant has established these three elements. She has been and is currently physically able to work. She has been available for work and ready to accept work if a job is offered to her. Claimant has been earnestly seeking work, applying for at least two jobs each week. Accordingly, benefits are allowed, provided she is otherwise eligible.

DECISION:

The May 25, 2018, (reference 01), unemployment insurance decision is reversed. Claimant is able to work, available for work, and actively and earnestly seeking work, and she has been since May 6, 2018. Benefits are allowed, provided claimant is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn