

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LUKE BIEBER**  
Claimant

**ALUMINUM CO OF AMERICA**  
Employer

**APPEAL 19A-UI-04790-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/12/19**  
**Claimant: Appellant (2R)**

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:**

On June 14, 2019, the claimant filed an appeal from the June 11, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was on a leave of absence and was not available for work. The parties were properly notified of the hearing. A telephonic hearing was held on July 9, 2019. The claimant, Luke Bieber, participated. The employer, Aluminum Company of America, participated through Michelle Stuck, Human Resources Business Partner. Claimant's Exhibit A was received and admitted into the record without objection.

**ISSUE:**

Is the claimant able to work and available for work effective May 12, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as an account manager, beginning February 12, 2018.

Claimant was never on a leave of absence from this employer. Claimant has never been a member of the United States military.

Claimant is currently looking for sales and marketing positions. He has work experience in both of these areas. Claimant is applying for at least two jobs each week. He has been and continues to be physically able to work and available for work.

Claimant separated from this employer on May 15, 2019. That separation has not yet been the subject of a fact-finding interview.

## REASONING AND CONCLUSIONS OF LAW:

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

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...

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(10) provides:

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

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In order to receive unemployment insurance benefits, an individual must be able to and available for work. Claimant has established that he is able to work. He has also proven that he is available for work, should he be offered employment at any time. Claimant has never been on a leave of absence. Finally, claimant has established that he is actively and earnestly seeking work. Therefore, the administrative law judge finds that claimant is able to and available for work. Benefits are allowed, provided he is otherwise eligible.

This matter will be remanded for further exploration of the separation from employment.

**DECISION:**

The June 11, 2019, (reference 01) unemployment insurance decision is reversed. Claimant is able to work, available for work, and actively and earnestly seeking work. Benefits are allowed, provided claimant is otherwise eligible.

**REMAND:**

The issue of claimant's separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and decision.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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