

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

HUDA I GHABOUSH
Claimant

APPEAL NO: 14A-UI-05349-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/15/13
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Huda I. Ghaboush (claimant) appealed a representative's May 19, 2014 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits by being able and available for work through being authorized to work. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on June 12, 2014. This appeal was consolidated for hearing with one related appeal, 14A-UI-05350-DT. Prior to the hearing being held, the administrative law judge determined that no hearing was necessary and a decision was made on the record. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

FINDINGS OF FACT:

The claimant was admitted as a citizen of the United States of America as of May 14, 2010.

REASONING AND CONCLUSIONS OF LAW:

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3. This necessarily requires that the claimant be authorized to work, either by being a citizen of the United States, or by being an alien who is authorized to work. Iowa Code § 96.5-10; Rule 871 IAC 24.60(4).

Rule 871 IAC 24.60(2) provides:

Alien. Any person who is not a citizen or a national of the United States. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States. An alien is a person owing allegiance to another country or government.

(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

a. If the response is "yes," no further proof is necessary and the claimant's records are to be marked accordingly.

b. If the answer is "no," the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual's status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94 "Arrival and Departure Record" and the Forms I-151 and I-551 "Alien Registration Receipt Card." These forms are issued by the immigration and naturalization service and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual's alien registration number at the time of claim filing.

The claimant has demonstrated that she is a citizen of the United States of America and therefore able to work. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's May 19, 2014 decision (reference 01) is reversed. The claimant is a citizen and is able for work effective December 15, 2013. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs