

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**BARRY S POE**  
Claimant

**APPEAL NO: 19A-UI-03828-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/24/19**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Barry Poe (claimant) appealed a representative's May 6, 2019, decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits from April 14, 2019, through April 20, 2019. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on May 31, 2019. The claimant participated personally. Exhibit D-1 was received into evidence.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits on March 24, 2019. When the claimant filed for his weekly report for the week ending April 20, 2019, he pushed a button in error resulting in incorrect computer response data. The claimant was able and available for work for the week ending April 20, 2019. During that week he applied for work at the United States Postal Service and Hy-Vee.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work from April 14, 2019, through April 20, 2019.

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".

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's May 6, 2019, decision (reference 03) is reversed. The claimant was able and available for work and benefits are allowed from April 14, 2019, through April 20, 2019, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs