

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**NORMAN M SNOW**  
Claimant

**O'REILLY AUTMOTIVE INC**  
Employer

**APPEAL 17A-UI-00591-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/20/16**  
**Claimant: Respondent (1)**

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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 employer filed an appeal from the January 10, 2016, (reference 09) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 27, 2017. The claimant participated personally. The employer participated through Jacqueline McKinney, Leave of Absence Administrator. Cody Ausborn, Store Manager, also testified. Employer Exhibits 1 through four were admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant able to work and available for work effective November 20, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a delivery specialist and was separated from employment on August 3, 2016.

The claimant is applying for full-time employment in Ottumwa, Albia, Oskaloosa, and Bloomfield. He has applied with Cargill, M3, Walmart and others for positions consistent with his employment history. He has reliable transportation. He has no medical restrictions or limits to the employment he can accept.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able and available and actively seeking work effective November 20, 2016. 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.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. The claimant is currently searching for full-time work, consistent with his work history, in the Ottumwa and surrounding areas. He has no medical restrictions to the employment he can accept or any other restrictions to employability. Accordingly, benefits are allowed.

**DECISION:**

The January 10, 2017, (reference 09) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective November 20, 2016. Benefits are allowed, provided he is otherwise eligible.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs