

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOUGLASS G ADAMS
Claimant

APPEAL 16A-UI-10932-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/11/16
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 29, 2016, (reference 01), unemployment insurance decision that denied benefits from September 11, 2016 through September 17, 2016. After due notice was issued, a telephone conference hearing was scheduled to be held on October 24, 2016. Claimant participated. Official notice was taken of the administrative record of claimant's continued claims, with no objection.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a weekly continued claim online for the week ending September 17, 2016. During the filing of the claim for the week at issue, claimant pushed a button in error indicating he was not able to and available for work.

Claimant was taking classes through the union hall and once the classes are finished he goes back to work. The classes allow him to progress through his apprenticeship. Claimant is willing and able to work, but he has to take these classes.

Claimant has to take the classes through the union and is on a temporary layoff from the contractor so he can attend the classes. Once the classes are completed he goes back to work for the contractor. Claimant is not paid while he is attending the classes. Claimant did go back to work with the contractor and is currently working for the contractor; it is a full-time job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant has established he is considered able to and available for work the week ending September 17, 2016.

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.

Claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that he is considered able to and available for work for the time period in question because he had to attend the classes through the union to progress in his apprenticeship. Because the report indicating claimant was not able to or available for work for the week at issue was due to a reporting error, he is considered able to and available for work. Accordingly, benefits are allowed.

DECISION:

The September 29, 2016, (reference 01) decision is reversed. Benefits are allowed for the week ending September 17, 2016, provided he is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs