

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

RICO M HARMS
Claimant

APPEAL NO: 18A-UI-11844-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/23/18
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:

The claimant filed an appeal from the December 5, 2018, (reference 02) unemployment insurance decision that denied benefits for the week ending November 10, 2018. The claimant was properly notified about the hearing. A telephone hearing was held on December 26, 2018. The hearing was held jointly with Appeal 18A-UI-11845-JC-T. The claimant participated personally. 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.

ISSUE:

Is the claimant able to work and available for work for the week ending November 10, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant did not perform work for the week ending November 10, 2018. He did not refuse any offers of work and performed his weekly job search contacts as required. He accidentally pressed the wrong button when filing his weekly continued claim for the week ending November 10, 2018 online.

The claimant is now employed part-time as a night stocker for Hy-Vee. He attended orientation on December 8, 2018, and worked the week of December 9, 2018 through December 15, 2018. He did not report his wages earned for the weeks ending December 8 and 15, 2018, when he made his weekly continued claims for unemployment insurance benefits. (He has since discontinued making weekly continued claims for benefits.)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able to and available for work for the week ending November 10, 2018.

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show he is able to work, available for work, and earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1).

The claimant has sufficiently demonstrated to the satisfaction of the administrative law judge that he was able to and available for work, and made an active and earnest search for work for the week ending November 10, 2018. Accordingly, benefits are allowed for this week, provided he is otherwise eligible.

REMAND: The issue of the claimant's unreported wages from Hy-Vee beginning December 8, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The December 5, 2018, (reference 02) decision is reversed. The claimant was able to and available for work for the week ending November 10, 2018. Benefits are allowed for this week, provided he is otherwise eligible.

REMAND: The issue of the claimant's unreported wages from Hy-Vee beginning December 8, 2018 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn