

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN E RODISCH
Claimant

APPEAL NO. 13A-UI-00542-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MULFORD CONCRETE INC
Employer

OC: 07/08/12
Claimant: Appellant (5)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the representative's decision dated January 15, 2013, reference 02, which held that the claimant was not eligible for unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on February 14, 2013. The claimant participated personally. The employer participated by Jessie Allen, Business Office. The record consists of the testimony of Alan Rodisch and the testimony of Jessie Allen.

During the hearing it became evident that the issue in this case is whether the claimant is able and available for work as there has been no separation of employment. The parties waived notice of the issue and permitted the administrative law judge to decide the matter.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The employer does concrete flooring for commercial buildings such as hog confinements. The claimant was hired on July 31, 2012. He was a full-time laborer. When he was hired he told the employer that he was willing to travel. The claimant did not tell the employer that he was on probation and could not leave the state.

The claimant's crew was assigned a job in Ohio. Since this would require out of state travel and an extended stay in Ohio, the claimant was told by his probation officer that he could not go. Most of the employer's work is out of state and there was no work for the claimant in Iowa. The claimant's last day of work was September 4, 2012. He has not been terminated by the employer.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.23(18) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

The claimant is not eligible for benefits. The claimant is not able and available for work with the employer, which is a requirement that must be met before benefits can be obtained. The claimant knew when he was hired that he had to travel with the job. He told the employer that he was willing to travel. What he did not tell the employer was that he could not leave the state because he was on probation. The claimant is limited to the areas where he can work. He was hired with the expectation that he could travel since most of the employer's work is outside of Iowa. Under these circumstances the claimant is not able and available for work. Benefits are denied.

DECISION:

The unemployment insurance decision dated January 15, 2013, reference 02, is modified without effect. The claimant is not eligible for benefits effective September 7, 2012, because he is not able and available for work.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css