

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RUFUS KUNWON
Claimant

IMPRINTS LLC
Employer

APPEAL 17A-UI-06046-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/14/17
Claimant: Respondent (1R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

STATEMENT OF THE CASE:

The employer filed an appeal from the June 7, 2017, (reference 03) unemployment insurance decision that allowed benefits based upon being able to and available for work. The parties were properly notified about the hearing. A telephone hearing was held on June 27, 2017. Claimant participated. Employer participated through program director Agnes Warutere.

ISSUES:

Is the claimant able to work and available for work effective May 14, 2017?
Does the claimant meet the definition of being considered partially unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time direct support professional through May 25, 2017. He declined an offer of work at that point and was separated from employment. He has two other employers in the base period, has been separated from each, and is fully unemployed. He is seeking full-time work in the health care industry.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work, but is not partially unemployed.

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".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefit 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 has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. Claimant is fully unemployed and is seeking full-time work in the health care industry. Accordingly, he is eligible for unemployment insurance benefits, provided he is otherwise eligible.

DECISION:

The June 7, 2017, (reference 03) unemployment insurance decision is affirmed. The claimant is able to work and available for work effective May 14, 2017. Benefits are allowed, provided he is otherwise eligible.

REMAND: The separation and work refusal issues delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision. The Bureau may also determine whether or not claimant needs job placement or other assistance since he has been unemployed for up to eight months.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs