

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PETER C JAMES**  
Claimant

**APPEAL 18A-UI-11085-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 09/30/18**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 7, 2018, (reference 06) unemployment insurance decision that denied benefits for the week ending November 10, 2018 based upon a determination that he was on vacation and not able to work that week. The claimant was properly notified about the hearing. A telephone hearing was held on November 29, 2018. Claimant participated and testified. Claimant's Exhibit A was received into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an initial claim for benefits beginning September 30, 2018. Claimant filed a weekly continued claim for the week ending November 10, 2018. Claimant was on vacation with friends in Las Vegas from Monday, November 5 through Wednesday, November 7, 2018. Claimant had a job interview later that week and applied for two jobs on November 9. (Exhibit A). He was also available for a fact-finding interview with Iowa Workforce Development while in Las Vegas. Claimant testified, had he been offered a job with an immediate start date, he would have used frequent flyer miles to fly home immediately, but that in his profession an immediate start date would have been unlikely.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work the week ending November 10, 2018.

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. 871-24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

Claimant was out of town, on vacation in Las Vegas, November 5 through November 7, 2018, which is a majority of the work week. Accordingly, he is not eligible for unemployment insurance benefits for the week ending November 10, 2018.

**DECISION:**

The November 7, 2018, (reference 06) unemployment insurance decision is affirmed. The claimant was not able to work and available for work for the week ending November 10, 2018. Benefits are withheld for that week.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs