

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DOUGLAS A WARDEN**  
Claimant

**JOHN DEERE DUBUQUE WORKS**  
Employer

**APPEAL 19A-UI-03865-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/24/19**  
**Claimant: Appellant (1)**

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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 May 6, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was working enough hours to be considered employed. The parties were properly notified of the hearing. A telephonic hearing was held on June 4, 2019. The claimant, Douglas Warden, participated. The employer, John Deere Construction Equipment, participated through Robert Harbin, Labor Relations Administrator. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant able to work and available for work effective April 14, 2019?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with John Deere in February 2004. He is currently employed full-time as an assembler. Claimant was laid off from April 7 through April 13, 2019. Claimant failed to file his weekly continued claim for that week in a timely manner. Claimant returned to work on April 15, 2019. He worked a full week upon his return. Claimant is not seeking benefits for the week ending April 20, 2019. He is only seeking benefits for the week that he was laid off, the week ending April 13, 2019.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not available for work for the one week ending April 20, 2019. Benefits are withheld.

Claimant is requesting that the agency grant him retroactive benefits for the week ending April 13, 2019. Iowa Code section 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing*. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim. Iowa Admin. Code r. 871-24.2(1)g. Claimant failed to file his weekly continued claim in time to receive benefits for the week ending April 13, 2019. While the administrative law judge understands that this was simply a mistake, the law no longer allows for retroactive benefits provided the claimant demonstrates good cause. Therefore, claimant cannot receive benefits for the week ending April 13, 2019.

The next issue is whether claimant is eligible for benefits for the week ending April 20, 2019. 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. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

In this case, claimant returned to work from his temporary layoff on April 15, 2019. Claimant worked a full week upon his return. Therefore, the administrative law judge finds claimant was removed from the labor market and was not available for work. Benefits are withheld for the week ending April 20, 2019.

**DECISION:**

The May 6, 2019, (reference 01) unemployment insurance decision is affirmed. Claimant was not available for work during the one week ending April 20, 2019. Benefits are withheld.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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