

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDON J MICEK
Claimant

E & K OF OMAHA INC
Employer

APPEAL 15R-UI-04505-GT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/02/14
Claimant: Appellant (2)

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:

Claimant filed an appeal from a decision of a representative dated December 3, 2014, (reference 01) that held claimant not able to and available for work. After due notice, a hearing was scheduled for and held on May 19, 2015. Claimant participated personally. Employer participated by Joi Katskee, Account Clerk.

ISSUE:

Was the claimant able to and available for work the week ending November 8, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed as an apprentice and did not work the week ending November 8, 2014, because he attended mandatory training for the job and apprenticeship. He was not paid for that week.

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 for the period in question.

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. 871-24.22(2) provides:

Benefits 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.

Since claimant was attending mandatory training for the employment and was not paid wages for that week, he is considered able to work and available for work during the period of training.

DECISION:

The December 3, 2014, (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work the week ending November 8, 2014. Benefits are allowed.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/pjs