

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GRACIELA VILLA
Claimant

APPEAL NO: 15R-UI-07004-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/15
Claimant: Appellant (2)

Section 96.5-10 – Authorization to Work in the United States
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 10, 2015, reference 02, decision that concluded she was not eligible to receive unemployment insurance benefits. A telephone hearing was scheduled for July 23, 2015. A hearing was not deemed necessary due to subsequent agency action.

ISSUE:

The issue is whether the claimant was legally authorized to work in the United States.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an original claim for unemployment insurance benefits effective March 15, 2015. Proof of citizenship has been provided to the agency. Subsequent agency action determined the claimant has furnished proof of citizenship.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is legally authorized to work in the United States.

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 Code § 96.5-10 provides:

10. Aliens—disqualified. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of § 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

When an employee fails to provide proof of citizenship or work registration, she is considered to be unavailable for work. The claimant is authorized to work in the United States because proof of citizenship has been furnished. She is considered to be available for work. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible. In this case the claimant has been disqualified due to her separation from her employment with Osceola Food.

DECISION:

The April 10, 2015, reference 02, decision is reversed. The claimant is able to work and available. Benefits are allowed, provided the claimant is otherwise eligible, which in this case she is not because of her disqualifying separation from Osceola Food.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs