

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESUS G HERNANDEZ
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 17A-UI-09124-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/30/17
Claimant: Appellant (4)**

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 August 28, 2017, (reference 02) unemployment insurance decision that denied benefits effective July 30, 2017, based upon his availability for work. The parties were properly notified about the hearing. A telephone hearing was held on September 26, 2017. Claimant participated. Employer participated through human resource manager Rhonda Hefter de Santisteban and branch manager Lynn Pedersen.

ISSUE:

Is the claimant able to work and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant most recently began working for employer in May 2017. He was assigned to work at Van Diest Supply on a full-time basis. His shifts ran from 11:00 a.m. until 7:00 p.m. He was laid off from the assignment on July 21, 2017. Claimant was then assigned to work on a part-time basis at Brand Marketers as a promotional representative from July 28, 2017, until August 4, 2017, when he was laid off.

On August 14, 2017, branch manager Lynn Pedersen offered claimant a full-time assignment working first shift. Claimant informed Pedersen he did not want to accept the assignment because he did not want to start an assignment he would have to quit in two weeks. Claimant informed Pedersen he would be starting school in two weeks and he would need a part-time, night job. Pedersen told claimant she would do the best she could to locate such an assignment, but it would be difficult.

The wages included in claimant's base period are from full-time jobs.

Claimant began attending school on a full-time basis on August 28, 2017. He attends school during the day and is finished by 1:00 p.m. Claimant began working a full-time job through employer on September 15, 2017. Claimant works second shift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective August 14, 2017.

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(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Claimant was available to work from July 30 through August 14, 2017, as he did not restrict his hours during that time period. Since claimant thereafter limited the number of hours he was available to or willing to work, he has not established his availability for work effective August 14, 2017. Accordingly, benefits are denied effective August 14, 2017.

DECISION:

The August 28, 2017, (reference 02) unemployment insurance decision is modified in favor of appellant. The claimant was available to work from July 30, 2017, through August 14, 2017, and is eligible for benefits during that time period. The claimant is not able to work and available for work effective August 14, 2017. Benefits are denied thereafter.

Christine A. Louis
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Decision Dated and Mailed

cal/scn