

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEREK W SCHEPER
Claimant

TEMP ASSOCIATES IOWA INC
Employer

APPEAL 21A-UI-08954-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (2R)

Iowa Code § 96.4(3) - Able and Available

STATEMENT OF THE CASE:

On March 26, 2021, Temp Associates-Iowa Inc (employer/appellant) filed an appeal from the March 17, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding claimant had good cause for refusing to accept on offer of work on May 20, 2020.

After due notice was issued, a telephone conference hearing was held on June 15, 2021. Derek Scheper (claimant/respondent) did not register a number for the hearing or participate. Employer participated by Branch Manager Susan Watkins. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer in January 2020. Claimant had several assignments there. Claimant filed a claim for benefits effective with the benefit week ending April 11, 2020. There have been numerous assignments made available to claimant since that time. However, claimant has largely turned down or not responded to offers of work. This included offers of work at prior assignments, in areas close to employer's location which claimant had been to before, and at places which were reachable by bus. Claimant is still eligible for assignment.

The administrative record shows claimant has filed a claim for benefits each week from the benefit week ending April 11, 2020 through the benefit week ending June 12, 2021. Claimant reported making no work searches during that period until the week ending May 1, 2021 and continuing to present.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 17, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding claimant had good cause for refusing to accept

on offer of work on May 20, 2020 is REVERSED. Claimant is ineligible for benefits effective April 5, 2020 due to being unavailable for work.

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".

The administrative law judge finds claimant has made himself unavailable for work since the effective date of the claim and continuing to present. This is because claimant has consistently turned down or not responded to offers of work from employer, including offers at places claimant worked in the past and which were accessible to him. Claimant has not established a good cause reason for not accepting those offers. Furthermore, claimant made himself unavailable for work by failing to perform any work searches for approximately a year. He only recently began searching for work.

Unemployment insurance benefits are meant to provide a safety net for individuals who are unable to secure employment despite being able to work, available for work, and diligently seeking out work. By failing to seek work or make himself available for work, claimant essentially removed himself from the labor market. He is therefore ineligible for benefits from the effective date of the claim.

DECISION:

The March 17, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding claimant had good cause for refusing to accept on offer of work on May 20, 2020 is REVERSED. Claimant is ineligible for benefits effective April 5, 2020 due to being unavailable for work.

REMAND:

This matter is REMANDED to the Benefits Bureau for a determination as to whether claimant has been overpaid benefits.



Andrew B. Duffelmeyer
Administrative Law Judge

Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

June 28, 2021
Decision Dated and Mailed

abd/ol

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.