

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSEPH D OLSON
Claimant

KWIK TRIP INC
Employer

APPEAL 21A-UI-02029-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/04/20
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Claimant filed an appeal from the December 17, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on February 25, 2021, at 2:00 p.m. Claimant participated. Employer participated through Emily Speropulos, Employment Specialist. No exhibits were admitted.

ISSUE:

Whether claimant was able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with Kwik Trip on August 2, 2000. Claimant is employed as a full-time Guest Service Leader. On October 5, 2020, claimant had contact with someone who was diagnosed with Covid-19. Claimant notified employer. Employer required claimant to quarantine for 14 days from the date of contact per employer's Covid-19 policy. Employer excluded claimant from working from October 9, 2020 until October 19, 2020. Claimant was not ill and had no barriers to employment during the mandatory quarantine. Claimant would have worked if employer had allowed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to and available 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".

Iowa Admin. Code r. 871-24.22(1), (2) provide, in pertinent part:

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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(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.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant's absence from work from October 9, 2020 until October 19, 2020 was mandated by employer. Claimant was not ill and had no barriers to employment. Claimant has established that he was able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The December 17, 2020 (reference 01) unemployment insurance decision is reversed. Claimant is able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

A handwritten signature in black ink, appearing to read "Adrienne C. Williamson", is positioned above a horizontal line.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 5, 2021
Decision Dated and Mailed

acw/scn