

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATRICK F GERAGHTY**  
Claimant

**APPEAL 17A-UI-02064-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/06/16  
Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(23) – Removed from Labor Market

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 17, 2017 (reference 04) unemployment insurance decision that denied benefits based upon a determination that claimant was not able and available for work. The parties were properly notified of the hearing. A telephone hearing was held on March 16, 2017. The claimant, Patrick F. Geraghty, participated. Claimant's Exhibit A was received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the claimant able to work and available for work effective February 5, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been filing weekly claims for unemployment insurance benefits since the week ending November 12, 2016. Claimant accepted employment effective Friday, February 3, 2017. He works 39.5 hours per week in this job. Claimant works Monday through Friday in first-shift hours. He continues to look for work where he could earn a higher wage, so he can leave his current employment or can have something lined up if his current employment ends.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not available for work effective February 5, 2017. Benefits are withheld.

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. 871-24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Here, claimant is not considered available for work effective February 5, 2017, because he has been working full-time hours since that time. This work has been to such a degree that he has removed himself from the labor market. Claimant has not established his availability for work. Thus, benefits are withheld.

**DECISION:**

The February 17, 2017 (reference 04) unemployment insurance decision is affirmed. Claimant is not able to work and available for work effective February 5, 2017. Benefits are denied.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed