

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD E MUSUMHI
Claimant

APPEAL NO. 17A-UI-06284-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05/14/17
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Richard Musumhi (claimant) appealed a representative's June 19, 2017, decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits because he was unavailable to work with Wal-Mart Stores (employer) as of June 4, 2017. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 6, 2017. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed for unemployment insurance benefits with an effective date of May 14, 2017, after his separation from employment with QPS Employment Group on May 6, 2017. He applied for and was hired as a part-time stocker with the employer while he was still employed with QPS Employment Group. He started working for the employer on May 8, 2017. When he started working for the employer, he asked if he could work full-time rather than part-time but no full-time work was available. The claimant has worked all his scheduled hours except for two days when his brother was married.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is able and available for work.

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".

There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's June 19, 2017, decision (reference 03) is reversed. The claimant is able and available for work as of June 4, 2017. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs