

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TIMOTHY W MITCHELL-DELPH
Claimant

APPEAL NO: 18A-UI-00228-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 09/17/17
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Team Staffing Solutions (employer) appealed a representative's January 3, 2018, decision (reference 07) that concluded Timothy Mitchell-Delph (claimant) was eligible to receive unemployment insurance benefits as of December 10, 2017. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 29, 2018. The claimant participated personally. The employer participated by Sarah Fiedler, Human Resources Generalist.

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 employer is a temporary agency. The claimant started working for the employer on April 6, 2016. The claimant was assigned to work for Independent Can Company from October 2, 2017, to December 15, 2017. On December 15, 2017, Independent Can Company told the claimant he was being laid off.

On December 15, 2017, the claimant contacted Casey at the employer's office and told her he had been laid off. The employer told the claimant about a job in Keokuk, Iowa, and a job in Burlington, Iowa. The claimant said he was interested in both. The employer stated she would get back with him. The claimant repeatedly sought information from the employer about work but no assignments were forthcoming. On January 18, 2018, the employer placed the claimant on assignment at Foam Fabricators in Fort Madison, Iowa.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work from December 10, 2017, to January 20, 2018.

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".

There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed from December 10, 2017, to January 20, 2018, provided the claimant is otherwise eligible.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because he was an eye witnesses to the events in question. The employer did not provide witnesses or statements to support its case.

DECISION:

The representative's January 3, 2018, decision (reference 07) is affirmed. The claimant is able and available for work from December 10, 2017, to January 20, 2018.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs