

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SKYLAR M THORNTON
Claimant

APPEAL 17A-UI-09009-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE WEITZ CONSTRUCTION COMPANY IN
Employer

**OC: 08/07/16
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 21, 2017, (reference 08) unemployment insurance decision that denied benefits based upon claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on September 27, 2017. Claimant participated. Employer did not register for the hearing and did not participate. Claimant's Exhibit A was received.

ISSUE:

Is the claimant able to work and available for work from July 16 through July 22, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked full-time hours during the one week ending July 22, 2017. Claimant opened his claim early in anticipation of being in training and off work for the week ending July 29, 2017. Claimant did not intend to claim benefits for the week ending July 22, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work 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. 871-24.23(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.

Since claimant worked full-time hours during the one week ending July 22, 2017, he has not established his availability for work and benefits are denied for that week.

DECISION:

The August 21, 2017, (reference 08) unemployment insurance decision is affirmed. The claimant was not available for work during the week ending July 22, 2017. Benefits are denied for that week.

Christine A. Louis
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Decision Dated and Mailed

cal/scn