

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOUGLAS S MEYER
Claimant

APPEAL 19A-UI-09388-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 08/18/19
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On November 26, 2019, Douglas S. Meyer (claimant) filed an appeal from the November 20, 2019, reference 01, unemployment insurance decision that denied benefits for the week ending November 2, 2019 based upon his report that he was not able to and available for work. After due notice was issued, a telephone conference hearing was held on December 19, 2019 and consolidated with the hearings for appeals 19A-UI-09389-SC-T and 19A-UI-09390-SC-T. The claimant participated. No exhibits were offered into the record.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending November 2, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant accidentally reported he was not able to and available for work when filing his weekly claim. He is self-employed working approximately 25 hours a week at odd jobs; however, he is available and continues to search for full-time work. The claimant does not have any limitations on his ability to or availability for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work, available for work, and actively and earnestly seeking work during the week ending November 2, 2019. Benefits are allowed, provided he is otherwise eligible.

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 provides, in relevant 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.

...

(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.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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

...

(7) Where an individual devotes time and effort to becoming self-employed.

...

(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.

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. While the claimant devoted some time to self-employment, he was not working to such a degree that it removed him from the labor market. The claimant made two job contacts that week and is searching for full-time employment. The claimant has met the burden of proof to establish he was able to work, available for work, and actively and earnestly seeking work during the week ending November 2, 2019. Benefits are allowed, provided he is otherwise eligible.

DECISION:

The November 20, 2019, reference 01, unemployment insurance decision is reversed. The claimant was able to work, available for work, and actively and earnestly seeking work during the week ending November 2, 2019. Benefits are allowed, provided he is otherwise eligible.



Stephanie R. Callahan
Administrative Law Judge

December 24, 2019
Decision Dated and Mailed

src/scn