

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAEDEN C GONZALES
Claimant

APPEAL 17A-UI-01426-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHEARERS FOODS BURLINGTON LLC
Employer

**OC: 02/01/17
Claimant: Appellant (2)**

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 February 1, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was still employed and was working sufficient hours to be removed from the labor market . The parties were properly notified of the hearing. A telephone hearing was held on March 1, 2017. The claimant, Jaeden C. Gonzalez, participated. The employer, Shearers Foods Burlington, L.L.C., registered a participant but was not available when called at the hearing time.

ISSUE:

Is the claimant able to work and available for work effective January 8, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a packer, beginning September 13, 2016. Claimant filed her unemployment insurance claim on January 10, 2017, because she was on a one-week layoff. Claimant testified that everyone who worked on her line was off work for this week. Claimant believes the layoff was for maintenance reasons. Claimant returned to work on Wednesday, January 18, 2017, and has continued working since that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to work and available for work for the one-week period beginning January 8 and ending January 14. Benefits are allowed.

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. 871-24.22(2) provides:

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.

(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. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Iowa Admin. Code r. 871-24.23(41) provides:

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

(41) The claimant became temporarily unemployed, but was not available for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice to work, and that the willingness to work

would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Here, claimant credibly testified that she and her coworkers were laid off for one week while the employer performed maintenance. Claimant was not removed from the labor market for that one-week layoff. The following week, claimant was recalled to work. She returned to her employment and continues on in this employment through the date of the decision. Claimant has established that she was available for work for the one-week period ending January 14, 2017. Accordingly, benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The February 1, 2017 (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work effective January 8, 2017, through January 14, 2017.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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