

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**SCOTT W HUEBENER**  
Claimant

**APPEAL NO. 15A-UI-13226-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/04/15**  
**Claimant: Appellant (1/R)**

Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 19, 2015 (reference 03) which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on December 17, 2015. Claimant participated personally.

**ISSUE:**

The issue in this matter is whether 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: Claimant worked for employer Quinn Equipment. Lately claimant's part-time job had been getting fewer hours. Claimant was bothered by the lack of business that was running through the shop, the fact that his hours had decreased, and a new person had been hired. Claimant stated that he would close down the business early and leave when business was slow. This was before claimant's shift was over. Claimant was paid by the hour and paid to be at the business until close. Claimant did not have permission to close the business early.

During the week in question, from October 18, 2015 through October 24, 2015, employer found out that claimant was receiving benefits for partial unemployment as claimant's hours had decreased. Employer confronted claimant in an angry manner concerning this situation. After employer stated he was not happy with claimant's work output, not happy with claimant shutting down work early, and not happy with his filing for unemployment – all of which was done with much foul language – claimant walked out.

**REASONING AND CONCLUSIONS OF LAW:**

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. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Claimant stated that he had shut down the business early when work was slow. He did this even though he was scheduled to work longer hours. By shutting down the business early, claimant showed that he was not willing to work the hours to which he'd been assigned. As claimant was not able and available for work during time periods when he was supposed to be at work, claimant is not eligible for benefits for that period.

**DECISION:**

The decision of the representative dated November 19, 2015 (reference 03) is affirmed. Claimant is not eligible to receive unemployment insurance benefits for the time period from October 18, 2015 through October 24, 2015. This matter is remanded to the fact finder for further determination as to claimant's eligibility for unemployment benefits for the time period beginning October 25, 2015 on the separation issue.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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