

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL C CHANCELLOR
Claimant

APPEAL 19A-UI-04086-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

**OC: 04/07/19
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 May 13, 2019, (reference 01) 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 June 12, 2019. Claimant participated. Employer participated through assistant branch manager Amy Shannon and was represented by Mai Lor.

ISSUE:

Is the claimant able to work and available for work effective April 21, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a temporary staffing firm. Claimant began working for employer in August 2018. Claimant worked on second shift until the assignment ended in January 2019. Claimant then worked for another staffing firm until that assignment also ended in March 2019. Claimant then filed a claim for unemployment insurance benefits with an effective date of April 7, 2019.

In April 2019, employer talked to claimant about working on first shift at a new assignment. Claimant stated that he was only available for second or third shift.

On June 3, 2019, claimant made himself available to work on first shift and notified employer. Claimant is now working for employer on first shift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective April 21, 2019.

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(2)a provides:

Benefit 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.

a. Shift restriction. The individual does not have to be available for a particular shift. If an individual is available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

In this case, claimant's only restriction on his work was the shift that he was available. Claimant was available for work during second and third shift. Claimant was available for work on the same basis during which his wage credits were earned and there was a reasonable expectation of him securing employment during second or third shift.

Claimant has established he was available for work effective April 21, 2019.

DECISION:

The May 13, 2019, (reference 01) decision is reversed. The claimant is able to work and available for work effective April 21, 2019. Benefits are allowed.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn