

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TERRANCE CAMPBELL
Claimant

PLASTIC PRODUCTS CO INC
Employer

APPEAL 17A-UI-07558-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/18/16
Claimant: Respondent (4R)

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 employer filed an appeal from the July 19, 2017, (reference 04) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 14, 2017. The claimant participated personally. The employer participated through Jane Molony, human resources administrator. **NOTE TO EMPLOYER:** If you wish to change the address of record, please access your account at: <https://www.myiowaui.org/UITIPTaxWeb/>.

Employer Exhibit 1 was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective July 2, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant permanently separated from employment with this employer effective January 13, 2017 (Employer Exhibit 1). That separation has not yet been determined at the claims level.

The claimant has been employed full-time at HJ Heinz since January 16, 2017. He was temporarily laid off from work for the week of July 2, 2017 through July 8, 2017, and July 30, 2017, through August 5, 2017. He has otherwise been performing work full-time for HJ Heinz.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to and available for work July 2, 2017 through July 8, 2017, and July 30, 2017, through August 5, 2017 only. The claimant is otherwise not able to and available for work.

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. 871-24.23(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.

An individual claiming benefits must be able to work, available for work, and if unemployed, actively and earnestly seeking work. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated. Iowa Code Section 96.19(38)(c). In this case, the claimant was able to and available for work during the periods of July 2, 2017 through July 8, 2017, and July 30, 2017 through August 5, 2017, when work was not available due to a temporary lay-off at HJ Heinz. However, the claimant is otherwise not able to and available for work, as he is currently employed full-time

and has removed himself from the labor market. Benefits are allowed only for the two weeks the claimant was laid off, provided he is otherwise eligible.

REMAND: The issue of separation with this employer, Plastic Products Co Inc., delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 19, 2017, (reference 04) decision is modified in favor of the appellant. In this case, the claimant was able to and available for work during the periods of July 2, 2017 through July 8, 2017, and July 30, 2017 through August 5, 2017. Benefits are allowed for this period only, provided he is otherwise eligible. The claimant is otherwise not able and available for work, and therefore ineligible for benefits.

REMAND: The issue of separation with this employer delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn