

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEREMY L YOUNG
Claimant

STANLEY ROOFING LLC
Employer

APPEAL NO. 19A-UI-09573-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/20/19
Claimant: Appellant (2R)**

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 25, 2019 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on January 6, 2020. Claimant participated personally. Employer participated by Eric Marter.

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 works as a Summer roofer and an occasional Winter snow remover for employer. Claimant was told in the end of October that he needed to be on call to do snow removal, but could apply for periodic unemployment benefits.

The night of November 10, 2019 claimant received a text from employer stating they would remove snow the next day. The next morning claimant texted employer stating that he could not remove snow that day because of a recently-occurred legal problem that left claimant subject to arrest. Employer stated that they decided to terminate claimant for not showing up to work but did not alert claimant of this action. Claimant contacted employer within a day to alert that he was willing to work, but employer stated that snow was not enough to remove.

REASONING AND CONCLUSIONS OF LAW:

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".

The claimant in this matter has established the ability to work, with the exception of the one day when he called off for personal reasons. As the issue in this matter was solely that of claimant being able and available for work, this matter will be remanded to the fact-finder for a determination on separation. Benefits shall be allowed effective November 10, 2019, provided claimant is otherwise eligible.

DECISION:

The decision of the representative dated November 25, 2019, reference 02 is reversed and remanded to the fact finder for a determination on the separation issue. Claimant is deemed able and available for work throughout this time period. Claimant is eligible to receive unemployment insurance benefits, effective November 10, 2019, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn