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**APPEAL TRIBUNAL DECISION**

**Docket number:** 19 0761 **Hearing date:** August 23, 2019

**CLAIMANT:**

LUKE GALL

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Luke Gall None

 **CASE HISTORY**

The claimant timely appealed an August 1, 2019 redetermination which denied benefits under Alaska Statute 23.20.378. The issue before the Appeal Tribunal is whether the claimant was able to work and available for suitable work.

 **FINDINGS OF FACT**

The claimant established a claim for unemployment insurance benefits effective June 16, 2019. At that time, the claimant and his wife had agreed to foster two special needs children in addition to their already large family. The foster children had as many as 22 medical and therapy appointments per week. The claimant’s wife could not handle the additional burden on her own. The claimant’s employer could not grant the claimant a leave of absence, so the claimant quit work to concentrate on seeing to the needs of the foster children and getting them settled into the family.

Around July 30, 2019, the claimant and his wife began receiving additional help with the children. This freed the claimant up to begin searching for work, which he did around that time. The claimant posted a résumé on the Division’s Alaska Labor Exchange website on August 5, 2019.

 **PROVISIONS OF LAW**

**AS 23.20.378 provides:**

 (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work….

**8 AAC 85.350:**

 (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.

 (b) A claimant is considered available for suitable work for a week if the claimant

 (1) registers for work as required under 8 AAC 85.351;

 (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;

 (3) meets the requirements of 8 AAC 85.353 during periods of travel;

 (4) meets the requirements of 8 AAC 85.356 while in training;

 (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;

 (6) is available, for at least five working days in the week, to respond promptly to an offer of suitable work; and

 (7) is available for a substantial amount of full‑time employment.

# CONCLUSION

In Arndt v. State, DOL, 583 P2d 799, Alaska, September 22, 1978, the Alaska Supreme Court adopted a two-fold test for determining a claimant's availability for work. The court held:

*The test requires (1) that an individual claimant be willing to accept suitable work which he has no good cause for refusing, and (2) that the claimant thereby make himself available to a substantial field of employment.*

This decision has been codified in 8 AAC 85.350. The burden is on the claimant to establish the first part of the test. The burden is on the Alaska Division of Employment and Training Services (DETS) to establish there is not a substantial field of employment remaining if it intends to deny benefits.

The claimant was not available for full-time work when his claim was established. He became willing to accept full-time work in the week ending August 3, 2019 when extra help with the children allowed him to begin searching for full-time work.

 **DECISION**

The redetermination issued on August 1, 2019 is **AFFIRMED**. Benefits remain **DENIED** for the weeks ending June 22, 2019 through July 27, 2019.

 **APPEAL RIGHTS**

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party’s control. A statement of rights and procedures is enclosed.

Dated and mailed on August 28, 2019

 Rhonda Buness, Appeals Officer