

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

STEPHANIE M SIMONS
Claimant

APPEAL NO. 09A-UI-15852-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 01-04-09
Claimant: Appellant (2)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 19, 2009, reference 01, decision that denied benefits finding the claimant not able to and available for work. After due notice was issued, a telephone hearing was scheduled for November 24, 2009. Because of subsequent agency action, the hearing was not necessary.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision the claimant appealed from dated October 19, 2009, reference 01, denied benefits effective October 11, 2009. In a representative's decision dated November 10, 2009, reference 03, amending reference 01, the agency reversed that denial and allowed benefits effective October 11, 2009.

REASONING AND CONCLUSIONS OF LAW:

Inasmuch as the agency reversed the prior disqualification prior to the hearing, there is no issue for the administrative law judge to adjudicate.

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 is and has been able to and available for work. She did not fail to report as directed.

DECISION:

The representative's decision dated October 19, 2009, reference 01, is reversed so as to be consistent with the subsequent agency action. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw