

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELINDA M PYLE**  
Claimant

**APPEAL NO. 08A-UI-07621-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VENUWORKS OF CEDAR RAPIDS LLC**  
Employer

**OC: 06/08/08 R: 03  
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 12, 2008, reference 06, which held claimant not able and available for work. After due notice, a telephone conference hearing was scheduled for and held on September 8, 2008. Claimant and Employer failed to respond to the hearing notice and did not participate. Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant is able and available for work.

**FINDINGS OF FACT:**

Claimant called in late and declined to participate. Claimant was late because of bad telephone lines.

The administrative law judge, having considered all of the evidence in the record, finds: Claimant works on call for the employer. Claimant is not receiving the same hours and wages in the on-call job as in the original contract of hire. Claimant is partially unemployed receiving only intermittent work. Claimant fails to receive any wages for some weeks.

**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".

Benefits shall be allowed effective June 8, 2008 because claimant is completely unemployed during some weeks and partially unemployed in others.

**DECISION:**

The decision of the representative dated August 12 2008, reference 06, is reversed. Claimant is eligible to receive unemployment insurance benefits, effective June 8, 2008, provided claimant meets all other eligibility requirements.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

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