

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY THOMPSON
Claimant

APPEAL NO. 10A-UI-05728-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**Original Claim: 02/07/10
Claimant: Appellant (2)**

Iowa Code § 96.4-3 - Able and Available for Work
Iowa Code § 96.4(6)(a) - Department Approved Training

STATEMENT OF THE CASE:

Cindy Thompson (claimant) appealed an unemployment insurance decision dated April 6, 2010, reference 03, which held that she was not eligible for unemployment insurance benefits because she does not meet the availability requirements of the law. Due notice was issued scheduling the matter for a telephone hearing to be held June 3, 2010. Because a decision fully favorable to the parties could be made based on the record as it stood, a hearing was deemed unnecessary. Based on the evidence and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: In a decision dated October 26, 2009, reference 01, the claimant's request for Department-Approved Training (DAT) was allowed. She was approved for training status from October 18, 2009 to July 31, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available for work. Before a claimant is considered eligible to receive weekly unemployment insurance benefits, she must be able and available to work and must make an active search for work. Iowa Code § 96.4-3. The administrative rule states an individual shall be ineligible for benefits for any period during which the department finds the individual failed to make an earnest and active search for work. An individual must make a sincere effort to find a job. 871 IAC 24.22(3).

However, while attending an approved training course, the claimant does not need to be available for work or actively seeking work. After completion of the department-approved training, the claimant must be able to work and actively search for work. 871 IAC 24.39(2).

As long as claimant remains eligible for DAT, the requirements to be able and available for work and to make weekly work searches are waived pursuant to 871 IAC 24.39(2). The employer's account shall not be charged for benefits paid during claimant's eligibility for DAT. Accordingly, benefits are allowed as of October 18, 2009, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated April 6, 2010, reference 03, is reversed. The ability to work and availability for work requirement is waived while the claimant is eligible for DAT. Benefits are allowed effective October 18, 2009. The employer's account will not be charged for any benefits paid to the claimant during the approved period of DAT.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw