

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COURTNEY M LYSTER
Claimant

APPEAL 16A-UI-12726-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

POLARIS INDUSTRIES INC
Employer

**OC: 10/30/16
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 22, 2016, (reference 02) unemployment insurance decision that denied benefits based upon her availability for work. The parties were properly notified about the hearing. A telephone hearing was held on December 15, 2016. Claimant participated. Employer did not participate.

ISSUE:

Is the claimant able to work and available for work effective October 30, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment benefits with an effective date of October 30, 2016, in anticipation of a temporary layoff. Claimant worked full-time hours during the week ending November 5, 2016. Claimant worked reduced hours during the weeks ending November 12 and 19, 2016. Claimant has not worked any hours since November 16, 2016. Claimant has reported her wages as earned when filing her weekly claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective November 6, 2016.

Iowa Code § 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".

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

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".

In this case, claimant was not available for work during the week ending November 5, 2016, as she was working to such a degree that removed her from the labor market. However, claimant became available for work during the next week when she began working reduced hours due to lack of work and became temporarily laid off effective November 16, 2016.

DECISION:

The November 22, 2016, (reference 02) unemployment insurance decision is modified in favor of claimant. The claimant is able to work and available for work effective November 6, 2016. Benefits are allowed, provided claimant is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

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