

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TESHONDER R HOUSE**  
Claimant

**REACH FOR YOUR POTENTIAL INC**  
Employer

**APPEAL 14A-UI-13395-GT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/07/14**  
**Claimant: Respondent (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated December 23, 2014, (reference 01) that held claimant was able to and available for work. After due notice, a hearing was scheduled for and held on January 26, 2015. Claimant participated personally. Employer participated by Kelli Rice, Human Resources Director.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was temporary laid off from her employment beginning on December 3, 2014 through December 19, 2014. During that time employer was doing background checks on the claimant as required by their rules.

When claimant began working for employer she notified them that she was available for work during the night time hours only because of her obligations to care for her children. Employer agreed to those terms of employment and hired claimant to work at night. Claimant was available to work at night consistent with the original contract of hire, but was not available to work during the day.

Employer offered claimant employment at another location during the lay off period, but for the day shift. Claimant could not work during the day because of her family commitments.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was able and available for work.

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 Code § 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Because the employment is not consistent with the original contract of hire, and the claimant was available to work during her normal hours she is considered able to and available for work. Benefits shall be allowed effective December 7, 2014.

**DECISION:**

The decision of the representative dated December 23, 2014, (reference 01) is affirmed. Claimant is eligible to receive unemployment insurance benefits, effective December 7, 2014, provided claimant meets all other eligibility requirements.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/pjs