

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CATHERINE D CONNELLY
Claimant

WALMART INC
Employer

APPEAL 20A-UI-00169-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/01/19
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(23) – Able and Available

STATEMENT OF THE CASE:

Walmart (employer) appealed a representative's December 30, 2019, decision (reference 01) that concluded Catherine Connelly (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 27, 2020. The claimant did not provide a telephone number and did not participate in the hearing. The employer participated by Dani Kane, Front End Coach. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits as of December 1, 2019.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 2, 2018, as a full-time employee with an hourly rate of \$11.73. The company management overhauled the structure of the store and the claimant's hours were reduced.

The claimant worked eight hours from November 30 to December 6, 2019, and twenty-one hours between December 7 and December 13, 2019. Hours were reduced because the claimant did not agree to change her role with the company. The claimant opened unemployment insurance benefits with an effective date of December 1, 2019, but did not file any weekly claims.

On December 21, 2019, the claimant accepted a new role with the company and receive an hourly wage of \$12.90 per hour. The claimant changed the availability documentation with her new role and started working thirty-two or more hours per week. On December 29, 2019, the claimant opened an additional claim for unemployment insurance benefits and filed weekly claims for the weeks ending January 4 and January 11, 2020. No benefits were issued. For the

week ending January 4, 2020, the claimant worked forty-one hours. For the week ending January 11, 2020, the claimant worked thirty-four hours.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is still employed.

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). The claimant wished to receive unemployment insurance benefits for the two-week period ending January 11, 2020, but was working full-time for the employer. The claimant is disqualified from receiving unemployment insurance benefits because the claimant was not available for other work.

This administrative law judge can make no determination on eligibility for benefits for the weeks prior to December 29, 2019, because no weekly claim for benefits was filed.

DECISION:

The representative's December 30, 2019, decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits due to being unavailable for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs