

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHELLY R GROVER**  
Claimant

**LUTHERAN SERVICES IN IOWA INC**  
Employer

**APPEAL 17A-UI-00181-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/18/16**  
**Claimant: Respondent (2-R)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the December 29, 2016, (reference 01) unemployment insurance decision that allowed benefits beginning December 18, 2016. The parties were properly notified about the hearing. A telephone hearing was held on January 27, 2017. Claimant participated. Employer participated through Program Supervisor, Teresa Hellum. Employer Exhibit 1 was admitted into evidence with no objection.

**ISSUE:**

Is the claimant able to work and available for work effective December 18, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a respite provider from June 11, 2014, and was separated from employment on December 16, 2016. Employer Exhibit 1. Claimant was not guaranteed a set number of hours when she was hired.

As respite provider, claimant was required to “complete and maintain mandatory reporter training certification.” Employer Exhibit 1. Claimant had her mandatory reporter training certification, but it expired on August 23, 2016. Employer Exhibit 1. On June 22, 2016 and July 26, 2016, the employer notified claimant her mandatory reporter training certification was going to expire on August 23, 2016. Employer Exhibit 1. Claimant was unable to work as a respite provider without her mandatory training certification. Employer Exhibit 1. Claimant was aware she needed the training to be up-to-date to work for the employer. Claimant did not complete her mandatory training certification and it expired on August 23, 2016. The employer had work available for claimant if she completed her mandatory training certification. The employer made several attempts to contact claimant after September 7, 2016, but did not hear back from claimant. Employer Exhibit 1. Claimant was separated from employment on December 16, 2016.

In August 2016, claimant started working full-time for Durham D & M LLC. Claimant is a full-time school bus driver for Durham D & M LLC.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not able to 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".

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. An employer is not obligated to accommodate claimant during a certification or license expiration but does have an obligation to abide by healthcare statutes and regulations promulgated. The employer had work available for claimant if she updated her mandatory training certification. Claimant's failure to maintain her mandatory reporting certification, a known condition of the employment, renders her unable to and/or unavailable for work in her usual occupation. Benefits are denied.

**DECISION:**

The December 29, 2016, (reference 01) unemployment insurance decision is reversed. Claimant is not able to work and available for work effective December 18, 2016. Benefits are denied.

**REMAND:** The separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs