

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOAN E REMINGTON
Claimant

APPEAL NO. 11A-UI-00197-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/21/10
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated December 28, 2010, reference 04, which held the claimant not eligible to receive unemployment insurance benefits as of January 1, 2011 upon a finding that the claimant was not available for work because the claimant was out of town for personal reasons and thus unduly limited her availability for work. After due notice a telephone hearing was held on February 7, 2011. Claimant participated personally. Claimant's Exhibits A and B were received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Joan Remington filed a claim for unemployment insurance benefits with an effective date of November 21, 2010 and received the customary information that explains the unemployment system and its requirements. Ms. Remington received a notice from Iowa Workforce Development instructing her to report to an area claims center on Monday, December 27, 2010 at 9:00 a.m. Claimant was unable to report as directed because she had left the geographic area on the afternoon of Saturday, December 25, 2010 and did not return until Monday, December 27, 2010 at 3:00 p.m. that day.

The claimant called to reschedule her appointment time. The claimant contacted prospective employers the remainder of that week and the following week, actively and earnestly attempting to become re-employed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant has established good cause for having failed to report as directed and finds that the claimant was able and available for work actively seeking re-employment during the majority of the weeks in question.

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".

871 IAC 24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant has established to the administrative law judge's satisfaction that she was actively and earnestly seeking work during the majority of the weeks in question by contacting prospective employers the major portion of the work weeks in question. Claimant was unable to report for an interview at 9:00 a.m. on December 27, 2010 because she was out of town from Saturday afternoon, December 25, 2010 through 3:00 p.m. Monday, December 27, 2010. Upon her return the claimant actively and earnestly sought work by contacting prospective employers through the week ending January 1, 2011. Benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated December 28, 2010, reference 04, is reversed. Claimant was able and available for work and is eligible to receive unemployment insurance benefits, providing that she meets all other eligibility requirements.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs