

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTY M LINK

Claimant

APPEAL NO. 11A-UI-00978-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OPERATION NEW VIEW

Employer

OC: 05/23/10

Claimant: Respondent (2)

Section 96.4-3 – Able and Available

871 IAC 24.1(113)a – Layoff

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 19, 2011, reference 02, that held the claimant is eligible for benefits beginning December 26, 2010, as she is still employed part-time or working on-call while on a short-term layoff. A telephone hearing was held on March 7, 2011. The claimant did not participate. Joy Davis, HR Director/Administrative Assistant, participated for the employer. Official notice was taken of Employer Appeal Documents.

ISSUE:

Whether the claimant is able and available for work.

Whether employer may be relieved of benefit charges

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began work for the employer as a part-time teacher associate in the Head Start Program on October 17, 2009. Claimant is still employed as of the date of this hearing. She works six-hour days, Monday through Friday.

The employer has a policy that requires employees to use accrued annual leave during the holiday break from December 22 thru January 4, 2011. Claimant filed an additional unemployment claim effective December 26, but she did not claim for and receive any benefit.

Claimant elected not to participate in this matter.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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".

The administrative law judge concludes claimant is not eligible for benefits effective December 26, 2010, as she was not on a short-term layoff.

The claimant was off work due to a holiday break period that requires her to use accrued vacation in addition to paid holidays to cover the period of unemployment.

DECISION:

The department decision dated January 19, 2011, reference 02, is reversed. The claimant is not eligible for benefits during the holiday break period ending January 1, 2011.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw