

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY ADAMS

Claimant

APPEAL NO: 07A-UI-07396-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND INNS OF AMERICA LLC

Employer

**OC: 05-06-07 R: 02
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 23, 2007, reference 06, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 16, 2007. The claimant participated in the hearing. Andrea Lowe, General Manager, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant worked for Heartland Inn. The employer is open 24 hours a day, seven days a week and the claimant was expected to work weekends as well as some weekdays. Although she asked in January 2007 to be considered for a full-time day position which did not require weekend work she was not interviewed for that job and was still expected to work her scheduled weekends. The claimant told the employer she did not want to work weekends because she works for a family-owned business and is needed at that job on weekends. On June 12, 2007, the employer sent her a letter offering her work Tuesday, June 26, Saturday, June 30 and Sunday, July 1, 2007, but she sent a return letter stating she was available Monday through Thursday 7:00 a.m. to 11:00 p.m. and 7:00 a.m. to 3:00 p.m. on Fridays. She then declined the June 26 shift because of family problems and the June 30 and July 1, 2007, shifts because she was going out of town to work at her family's business.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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".

871 IAC 24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant works in the hotel industry which is a 24-hour per day seven-day-per-week business. She has unduly limited her availability for that position by refusing to work weekends because she is working for a family-owned business. The employer has work available for the claimant but the claimant is not available to work the generally accepted hours and the hours she was previously expected to work. Accordingly, benefits are denied.

DECISION:

The July 23, 2007, reference 06, decision is affirmed. The claimant is not able to work and available for work effective May 6, 2007. Benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs