

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

<b>JACQUELINE M MOORE</b> Claimant  <b>IOWA WORKFORCE DEVELOPMENT DEPARTMENT</b>	68-0157 (9-06) - 3091078 - EI  <b>APPEAL NO. 19A-UI-01791-JTT</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b>  <b>OC: 02/03/19</b> <b>Claimant: Appellant (1)</b>
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Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 26, 2019, reference 03, decision that denied benefits effective February 3, 2019, based on the deputy's conclusion that the claimant was unduly limiting her availability for work. After due notice was issued, a hearing was held on March 14, 2018. Claimant participated personally and was represented by attorney Lorraine Gaynor. Exhibit A and B and Department Exhibits D-1, D-2 and D-3 were received into evidence.

**ISSUE:**

Whether the claimant has been able to work and available for work within the meaning of the law since February 3, 2019.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective February 3, 2019. The claimant's base period consists of the fourth quarter of 2017 and the first, second and third quarters of 2018. The claimant's base period employment was full-time. The claimant's base period wage credits are based on full-time employment. During the base period, the claimant worked as a full-time coffee barista. Toward the end of 2018, subsequent to the base period, the claimant reduced her work availability to under 30 hours per week. The claimant cites health issues and health insurance issues as the basis for restricting her work availability to part-time employment. The claimant wishes to maintain a part-time work schedule in order to qualify for subsidized health insurance. Since the claimant established the claim that was effective February 3, 2019, the claimant has elected to make herself available only for part-time employment and has elected not to make herself available for full-time employment.

**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".

Iowa Administrative Code rule 871-24.23(17) provides as follows:

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

...

24.23(17) Work is unduly limited because the claimant is not willing to work the number of hours required to work in the claimant's occupation.

Because the claimant's base period wage credits and unemployment insurance benefit eligibility are based on full-time employment, the claimant must demonstrate availability for full-time employment in order to meet the availability requirements. Since the claimant established her claim for benefits, she has elected to restrict herself to part-time work hours. The claimant has not been available for work within the meaning of the law since she established her original claim. Benefits are denied effective February 3, 2019. The availability disqualification continued at the time of the March 14, 2019 appeal hearing and will continue until the claimant demonstrates availability for full-time employment. The claimant must meet all other eligibility requirements.

**DECISION:**

The February 26, 2019, reference 03, is affirmed. The claimant has not been available for work within the meaning of the law since she established the original claim for benefits that was effective February 3, 2019. Benefits are denied effective February 3, 2019. The availability disqualification continued at the time of the March 14, 2019 appeal hearing and will continue until the claimant demonstrates availability for full-time employment. The claimant must meet all other eligibility requirements.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs