

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PAMELA DAVIS
Claimant

LABOR READY MIDWEST INC
Employer

APPEAL NO. 14A-UI-03637-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/09/14
Claimant: Appellant (5)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Pamela Davis (claimant) appealed an unemployment insurance decision dated April 2, 2014, (reference 03), which held that she was not eligible for unemployment insurance benefits because she is still employed at the same hours and wages with Labor Ready Midwest, Inc. (employer) as in her original contract of hire. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 28, 2014. The claimant participated in the hearing. The employer participated through Megan Papesh, Customer Service Representative. Employer's Exhibit One and Claimant's Exhibit A were admitted into evidence.

ISSUE:

The issue is whether the claimant meets the availability requirements of the law.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired for on-call temporary work on July 16, 2013, and continues to be employed in that same capacity. However, her last assignment ended on February 14, 2014, and she has only accepted one assignment since that date. The employer has made dozens of job offers but she has not responded to any of them.

The claimant has severe medical restrictions imposed on April 21, 2014. She cannot do heavy lifting, repetitive lifting greater than ten pounds or sporadic lifting greater than 20 pounds. She has COPD, arthritis in her wrists, and gamekeeper's thumb of her right dominant hand. On April 25, 2014, the claimant applied for Social Security disability. She said she is not able to do most of the jobs offered by the employer.

REASONING AND CONCLUSIONS OF LAW:

For a claimant to be eligible to receive benefits, the department must find that the claimant is able to work, available for work, and earnestly and actively seeking work. The claimant has the

burden of proof in establishing her ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979).

The preponderance of the evidence demonstrates the claimant is not able, available, and earnestly and actively seeking work. The claimant has not accepted most of the jobs offered to her by the employer and does not feel she is able to work in these jobs. She has significant medical restrictions as set out in the findings of fact. Additionally, the claimant applied for Social Security Disability benefits on April 25, 2014. Long-term disability benefits typically mean a claimant is not able to work. The claimant has not established that she is able and available to perform any meaningful work. Benefits are denied.

DECISION:

The unemployment insurance decision dated April 2, 2014, (reference 03), is modified with no effect. The claimant does not meet the availability requirements of the law and benefits are denied.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css