

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MIA M KENYON BROWN
Claimant

APPEAL 14A-UI-06859-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/05/14
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 25, 2014, (reference 02), unemployment insurance decision that denied benefits based upon not being able to work. After due notice was issued, a telephone conference hearing was scheduled to be held on July 24, 2014. Claimant participated.

ISSUE:

Is the claimant able to and available for work and actively and earnestly seeking work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is seeking work with non-profit organizations and trade associations. She is also seeking work with for-profit businesses. She declined a job with the Grant Wood AEA in Cedar Rapids because of the pay, which was less than her average weekly wage at that point in her claim, and also considered that as a factor in transportation expense. Her previous job was in Cedar Rapids but the rate of pay was sufficient to address the commuting expense. Her husband has a job in Iowa City so she is looking for work within commuting distance.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work and earnestly and actively seeking work.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(18) provides:

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

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. Claimant did and continues to seek work outside of the Iowa City area but only declined the Cedar Rapids job because the pay was not sufficient considering her commute, unlike her last job. Accordingly, benefits are allowed.

DECISION:

The June 25, 2014, (reference 02) unemployment insurance decision is reversed. The claimant is able to work and available for work effective May 11, 2014. Benefits are allowed.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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