

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICH GRIFFITH
Claimant

APPEAL NO. 13A-UI-14301-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WALGREEN CO
Employer

OC: 02/03/13
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 24, 2013, (reference 04) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on January 23, 2014. Claimant participated. Employer did participate through Jacob Buchanan, Store Manager.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a shift leader beginning on August 6, 2013 through date of hearing as he remains employed. The claimant was hired to work full time and has been working full time since his date of hire. His last twelve weeks of employment he is averaging 46.5 hours per week.

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 § 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(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant is working a full-time job of at least 40 hours per week. He is working enough hours that he is reasonably considered removed from the labor market since his date of hire of August 6, 2013. Accordingly, benefits are denied effective August 6, 2013.

DECISION:

The December 24, 2013, (reference 04) decision is affirmed. The claimant is not able to work and available for work effective August 6, 2013. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css