

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DESHUN L CROSS
Claimant

APPEAL NO. 09A-UI-08345-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESS DIRECT TELEMARKETING INC
Employer

OC: 04/12/09
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

DeShun Cross (claimant) appealed a representative's June 5, 2008, decision (reference 02) that concluded she was not willing to work with Access Direct Telemarketing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 25, 2009. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

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

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 on September 16, 2002, as a part-time customer service representative. On April 14, 2009, the company downsized and had no other part-time work for the claimant. The claimant's physician limited her to part-time work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is able and available for work.

871 IAC 24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness she is considered to be unavailable for work. The claimant was released to return to work with restrictions by her

physician. She is considered to be available for work because her physician stated she was able and available for part-time work. The claimant is not disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's June 5, 2009, decision (reference 02) is reversed. The claimant is not disqualified from receiving unemployment insurance benefits because she is available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css