

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA J ABELL
Claimant

APPEAL NO. 100-UI-07662-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

**Original Claim: 12/20/09
Claimant: Appellant (2-R)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated February 3, 2010, reference 01, that concluded the claimant was not able and available for work. A telephone hearing was scheduled for July 14, 2010. The claimant participated on her own behalf. The employer participated by Staffing Consultant Julie Coughlin.

ISSUE:

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

FINDINGS OF FACT:

Pamela Abell was employed by Remedy Staffing beginning August 4, 2008. Her last assignment began August 7, 2009, at General Mills. The plant shut down for the holidays beginning December 23, 2009, and reopened January 4, 2010. Ms. Abell worked December 21, and 22, 2009, but did not report any wages when she filed her claim for that week. The next week she took a two-day assignment at another location and did report those wages.

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".

The claimant was able and available for work at her regular assignment during the two-week period from December 20, 2009 through January 2, 2010, but the plant was shut down and no work was available. She is eligible for benefits.

The issue of whether the claimant is overpaid due to failing to report wages earned during the week ending December 26, 2009, should be remanded for determination.

DECISION:

The unemployment insurance decision dated February 3, 2010, reference 01, is reversed. Pamela Abell was available for work at her regular assignment during the weeks ending December 26, 2009 and January 2, 2010.

The issue of whether the claimant is overpaid for the week ending December 26, 2010, due to failing to report wages is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw