

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DELILAH M FRANKLIN
Claimant

KINSETH HOTEL CORPORATION
Employer

APPEAL 21A-UI-13367-ED-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/14/21
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38) – Total, Partially or Temporarily Unemployed
Iowa Code § 96.7(2)A(2) –

STATEMENT OF THE CASE:

On June 7, 2021, claimant/appellant, Delilah Franklin, filed an appeal from the May 27, 2021, (reference 03) unemployment insurance decision that concluded claimant was not eligible for unemployment insurance benefits after a separation from employment. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for 4:00 p.m. on August 4, 2021. The claimant did not participate. The employer participated through hearing representative, Tom Kuiper and witness, Missy Williams. No exhibits were offered or admitted.

ISSUE:

Is the claimant able and available to work?
Is the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The facts in this matter are undisputed. Claimant was employed part-time for this employer from January 6, 2021 and remains employed. Claimant is a guest service worker and she works approximately 24 hours per week. The employer does not dispute the claimant's receipt of benefits. The employer participates to provide support that its account not be charged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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", subparagraph (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".

Iowa Admin. Code r. 871-24.23(26) provides:

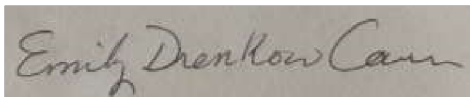
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant is still employed in her part-time job at the same hours and wages as contemplated her original contract for hire. Claimant was laid off from the employer on March 14, 2021. Claimant is eligible for benefits beginning March 14, 2021. The employer's account shall not be charged.

DECISION:

The May 27, 2021 (reference 03) decision is affirmed. Benefits are allowed. The employer's account shall not be charged.



Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

August 31, 2021
Decision Dated and Mailed

ed/kmj