

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA E LOPEZ
Claimant

LABOR GUYS LLC
Employer

APPEAL 19A-UI-06642-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/21/19
Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated August 12, 2019, reference 03, that concluded she was not eligible to receive unemployment insurance benefits as of July 21, 2019, because her availability to work with Labor Guys (employer) was limited. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 16, 2019. The claimant participated personally through Carlos Alvarez, Interpreter. The employer participated by Juan Miranda, Human Resources Specialist. The administrative law judge took official notice of the administrative file.

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 employer is a temporary agency. The claimant worked for the employer from November 8, 2017, to July 17, 2019, as a full-time second shift production worker at PAE. She worked until there was no more second shift work available. Eventually PAE moved its operation to Kansas City, Missouri. The claimant continued to be available for second shift work. She had a State of Iowa babysitter to care for her children during those hours.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge finds the claimant is able and available for work.

Iowa Admin. Code r. 871 IAC 24.23(8) provides:

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

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When an employee is spending working hours caring for children, she is considered to be unavailable for work. The claimant has cared for her children and is still able to work second shift because she has a babysitter. She is considered to be available for work.

DECISION:

The representative's August 12, 2019, decision (reference 03) is reversed. The claimant is able and available for work as of July 21, 2019.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs