

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TONYA M KONIGSMARK**  
Claimant

**APPEAL NO: 12A-UI-02258-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GRAPETREE MEDICAL STAFFING INC**  
Employer

**OC: 12/25/11**

**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tonya M. Konigsmark (claimant) appealed a representative's March 2, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits in connection with her employment with Grapetree Medical Staffing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 26, 2012. The claimant participated in the hearing. Tim Kinnetz appeared on the employer's behalf and presented testimony from two other witnesses, Kelly Seymour and Jeanenne Kinnetz. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The employer is a medical staffing firm. The claimant began taking on-call assignments with the employer on March 3, 2011. She primarily worked a medical surgical center in Muscatine. Her most recent day of work was September 18, 2011. She worked for about three months from June through August 2011 in Phoenix, Arizona, working for a similar company on a similar on-call basis. She had established an initial unemployment insurance benefit year effective December 13, 2009 after the end of a full-time employment. When that claim year expired, she established a new claim year effective December 26, 2010. Upon expiration of that claim year, she established a third claim year effective December 25, 2011. In the base period for the claimant's current claim year, her only Iowa wage credits are from this on-call employment with this employer; she would also have the non-Iowa wage credits from the on-call employment with the similar employer in Arizona.

**REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4-3.

871 IAC 24.22(2)i(3) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code § 96.19(9)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

The claimant's current base period employment is exclusively in on-call employment. She is deemed not to be able and available for work.

**DECISION:**

The representative's March 2, 2012 decision (reference 01) is affirmed. The claimant is not able to work and available for work effective December 25, 2011. The claimant is not qualified to receive unemployment insurance benefits.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/css