

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CRYSTAL L MCELROY
Claimant

APPEAL NO. 15A-UI-10306-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE AMERICAN BOTTLING COMPANY
Employer

OC: 08/09/15
Claimant: Respondent (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The American Bottling Company (employer) appealed a representative's September 4, 2015, decision (reference 02) that concluded Crystal McElroy (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 25, 2015. The claimant participated personally. The employer participated by Stephanie Dixon, Associate Human Resources Manager, and Brett Denney, Production Manager. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable 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 February 9, 2015, as a full-time machine operator. She was issued a union contract at the time of hire. The union contract indicates that if an employee is not scheduled to work a full 40 hours, she may request more work. To request more work a worker must complete a Report/Request form. The employer grants work to employees based on seniority.

The employer scheduled the claimant for only one day of work during the week ending August 15, 2015. She did not fill out a Report/Request form and ask for work. She was able and available to work during the week ending August 15, 2015. The employer was not certain there was work for her if she had filled out a Report/Request form.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work for the one-week period ending August 15, 2015.

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 § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

There was no evidence that there were any restriction or limitation on the claimant's employability. The employer did not prove there was any work available for the claimant. Accordingly, benefits are allowed for the week ending August 15, 2015, provided claimant is otherwise eligible.

DECISION:

The representative's September 4, 2015, decision (reference 02) is affirmed. Benefits are allowed for the week ending August 15, 2015, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css