

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARYLA ALBERT
Claimant

APPEAL NO: 08A-UI-01402-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROCKWELL COLLINS INC
Employer

OC: 01/06/08 R: 03
Claimant: Appellant (2)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Karyla Albert (claimant) appealed an unemployment insurance decision dated February 4, 2008, reference 02, which held that she was not eligible for unemployment insurance benefits because she could not be contacted for a job referral. Due notice was issued scheduling the matter for a telephone hearing to be held February 25, 2008. Because the administrative law judge was able to successfully contact the claimant, a hearing was deemed unnecessary.

ISSUE:

The issue is whether the claimant meets the availability requirements of the law.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The decision from which the claimant appealed found her not eligible to receive unemployment insurance benefits because she was not available and could not be contacted. The claimant explained in her appeal letter that since she was not working, she was trying to save her money for gas and could not afford phone service. However, she subsequently obtained phone service and can now be easily contacted.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant meets the availability requirements of the law. In order for an individual to be eligible to receive unemployment insurance benefits, the evidence in the record must establish that she is able to work, available for work, and earnestly and actively seeking work. See Iowa Code § 96.4(3) and 871 IAC 24.22.

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", 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".

871 IAC 24.22(2) 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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The claimant has the burden of proof in establishing her ability and availability for work. Davoren v. Iowa Employment Security Commission, 277 N.W.2d 602 (Iowa 1979). It was determined the claimant did not meet the availability requirements of the law because she could not be contacted by Iowa Workforce for a job referral. The claimant has remedied that problem and now has phone service. She is considered able and available for work. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated February 4, 2008, reference 02, is reversed. The claimant meets the availability requirements of the law and qualifies for unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs