

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARY A RANDALL
Claimant

APPEAL NO. 08A-UI-04366-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ULTIMATE NURSING
SERVICES OF IOWA INC**
Employer

**OC: 07-22-07 R: 03
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 1, 2008, reference 08, decision that found her not able to and available for work for three weeks between February 17, 2008 and March 8, 2008, and thus denied her unemployment insurance benefits. After due notice was issued, a hearing was held on May 21, 2008. The claimant did participate. The employer did participate through Ashley Wirtjes, Office Manager.

ISSUE:

Was the claimant able to and available for work from February 17, 2008 through March 8, 2008?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of July 22, 2007. From February 17, 2008 through March 8, 2008, the claimant was out of town in Minnesota at her vacation home.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work from February 17, 2008 through March 8, 2008.

Iowa Code section 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 24.23(13) provides:

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

(13) If a claimant is visiting in another area and is not in the labor market.

871 IAC 24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

The claimant was out of town at her vacation home from February 17, 2008 through March 8, 2008, thus was unavailable for work. Accordingly, benefits are denied for this period.

DECISION:

The May 1, 2008, reference 08, decision is affirmed. The claimant is not able to work and available for work effective February 17, 2008 through March 8, 2008. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw