

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANICE L ARKU
Claimant

APPEAL NO. 13A-UI-00866-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESSIBLE MEDICAL
Employer

OC: 12/02/12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the representative's decision dated January 10, 2013, reference 01, which held that the claimant was not eligible for benefits as of December 2, 2012. After due notice was issued, a hearing was held by telephone conference call on February 21, 2013. The claimant participated personally. The employer participated by Mindy Butler, Administrator. The record consists of the testimony of Janice Arku and the testimony of Mindy Butler.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The employer is temporary medical staffing agency that services the entire state of Iowa. The claimant was hired on September 21, 2013, to provide services as a certified nursing assistant. The claimant was required to call the employer to indicate her availability. The employer would also call the claimant if work was available. The claimant was not guaranteed any specific number of hours of work when she was hired. She was free to refuse any assignments she did not want to take.

The claimant established an original claim for unemployment insurance benefits with an original claim date of December 2, 2012. She filed this claim because of what she called "lack of work." The claimant refused any assignment to Mitchellville because she had a relative who was injured at that facility. She also asked for work that was on a public bus line because she could not afford to put gas in her car. She asked the employer for a pay advance in order to buy gas. The employer does not provide pay advances to employees.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.23(18) provides:

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

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

The claimant is not eligible for unemployment insurance benefits. The claimant worked for a temporary staffing agency and was in essence an on-call employee. The claimant was given an opportunity to work when the employer had work available. The claimant knew when she was hired that no hours were guaranteed. She also knew that she would have to do some traveling since the employer staffed the entire state of Iowa. The claimant refused offers of work from the employer. She was not willing to work at a facility in Mitchellville for personal reasons. She also refused work unless she could get to the facility on a public bus line. The claimant therefore limited the places she was willing to work for reasons. The claimant could reasonably be expected to work within commuting distance of Des Moines. She refused work unless she was either given gas money or could travel by bus. This is an unreasonable limitation by the claimant. She is not able and available for work. Benefits are denied as of December 2, 2012.

DECISION:

The unemployment insurance decision dated January 10, 2013, reference 01, is affirmed. The claimant is not able and available for work effective December 2, 2012.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css