

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA S SMITH
Claimant

APPEAL NO. 08A-UI-00887-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11-25-07 R: 02
Claimant: Appellant (1)**

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 18, 2008, reference 04, decision that found the claimant not able to and available for work for the week ending December 8, 2007, thus not eligible for unemployment insurance benefits for that one week period. After due notice was issued, a hearing was held on February 12, 2008. The claimant did participate.

ISSUE:

Was the claimant able to and available for work during the week of December 2, 2007 through December 8, 2007?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant lives in Mason City but as recently as July of 2007 had worked in Sheffield, Iowa, which is approximately eighteen miles one way from her home. She could not work at Sukup in Sheffield during the week ending December 8, 2007 because she did not have reliable transportation for that week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

During the week ending December 8, 2007 the claimant did not have transportation to get to work in Sheffield, Iowa, an area she had previously commuted to and worked in. Accordingly, benefits are denied for the week ending December 8, 2007.

DECISION:

The January 18, 2007, reference 04, decision is affirmed. The claimant is not able to work and available for work effective December 2, 2007 through December 8, 2007. Benefits are denied for the one week period.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css