

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA K HICOK
Claimant

APPEAL NO. 13A-UI-11101-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CBE COMPANIES INC
Employer

OC: 04/07/13
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 25, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on October 23 2013. Claimant participated. Employer did not participate.

ISSUE:

Is the claimant able and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as an accounting clerk. She has worked for the employer for a number of years, and as has been her practice, she reduces her hours during the school year to attend classes. Work is available for her but she chooses not to work when work is available during those hours so she can attend classes.

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 § 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(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant is choosing not to work during the hours when work is available. Under such circumstances she is not considered able to and available for work. Accordingly, benefits are denied.

DECISION:

The September 25, 2013, (reference 02) decision is affirmed. The claimant is not able to work and available for work effective April 7, 2013. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs