

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICKI L MANNING
Claimant

APPEAL NO: 16A-UI-05510-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES RECEIVERSHIP SERVICES
Employer

OC: 04/10/16
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Des Moines Receivership Services (employer) appealed a representative's May 5, 2016, decision (reference 01) that concluded Vicki Manning (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 2, 2016. The claimant participated personally. The employer participated by Mark Murphy, General Manager. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired by the employer (account number 527991) on December 27, 2013, as a full-time bar manager earning \$13.00 per hour. In March 2016, the employer told the claimant that a new company purchased it. The claimant was told she would not lose her salary, seniority or job. She started working as a breakfast attendant at the same rate of pay.

On March 18, 2016, the claimant met with the general manager. He told her that her hourly wage was retroactively reduced to \$9.00 per hour. He offered her work as a breakfast attendant and some housekeeping hours. The claimant continues to work for the employer 12 hours a week as a breakfast attendant and a few hours a week as a housekeeper. The claimant's wages continued to be paid by employer account number 527991. The claimant volunteers to help babysit for her great nephew while she looks for full-time work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able and available for work as of April 10, 2016.

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".

There was no evidence that there were any restriction or limitation on employability. Accordingly, benefits are allowed.

DECISION:

The representative's May 5, 2016, decision (reference 01) is affirmed. The claimant is able and available for work as of April 10, 2016.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs