

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DORIS A CRILE
Claimant

APPEAL NO. 12A-UI-01193-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALBIA COMMUNITY SCHOOL DISTRICT
Employer

OC: 12/25/11
Claimant: Appellant (2)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Doris Crile, filed an appeal from a decision dated January 31, 2012, reference 01. The decision found her ineligible from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on February 29, 2012. The claimant participated on her own behalf. The employer, Albia Community School District (Albia), participated by Business Manager Melissa Bauer.

ISSUE:

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

FINDINGS OF FACT:

Doris Crile began employment for Albia September 10, 2010, as a substitute teacher's aide. In the spring of 2011 letters were sent by the employer to all substitute workers which asked them to notify the school district if they were interested in being substitutes for the coming school year. Ms. Crile sent back the letter on July 3, 2011, indicating she was willing to remain as a substitute aide but she would only be available on Fridays as she was attending a nursing program at the local community college.

The claimant was approved for Department Approved Training (DAT) by Iowa Workforce Development on December 25, 2011 through December 22, 2012. She was approved prior to that for the period January 3, 2011 through December 24, 2011.

REASONING AND CONCLUSIONS OF LAW:

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 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

- a. The educational establishment at which the claimant would receive training.
- b. The estimated time required for such training.
- c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

The claimant has been allowed DAT for the period from January 3, 2011 through December 24, 2012. Under the provisions of the above Administrative Code section she need not be available for work during the time the training is approved.

DECISION:

The representative's decision of January 31, 2012, reference 01, is reversed. Doris Crile is eligible for unemployment benefits as she is approved for DAT at this time. .

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css