

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SONDRA J KELCHEN**  
Claimant

**APPEAL NO. 12A-UI-01563-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING  
SEDONA STAFFING**  
Employer

**OC: 11-27-11  
Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 6, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 6, 2012. The claimant did participate. The employer did participate through Dennis Leeser, Account Manager and Chad Baker.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at Nordstrom Distribution Center in February 2012. The work was day to day. After the assignment at Nordstrom ended, the claimant refused additional work at another assignment because she did not want to work weekends. When the claimant put in her job application she indicated she would be available to work any shifts and all days of the week including weekends. The claimant also rejected the assignment because she was out of town in Cedar Rapids visiting her Mother. The claimant was not willing to work when work was available to her. The claimant has since been separated from her employment due to a failed drug test. No fact-finding interview has been held on her separation from employment in late February 2012.

**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(3) provides:

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code § 96.4(3).

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 refused to work weekends despite indicating to the employer when she was hired that she would work any shifts on any day of the week. The claimant was not willing to work when work was available, thus she is not able to and available for work effective December 18, 2011. Accordingly, benefits are denied.

**REMAND:**

The separation issue outlined in the findings of fact is remanded to the claims section for an initial determination.

**DECISION:**

The February 6, 2012 (reference 01) decision is affirmed. The claimant is not able to work and available for work effective December 18, 2011. Benefits are denied.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/pjs