

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA L BRIGGS

Claimant

APPEAL NO. 09A-UI-17727-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC

Employer

Original Claim: 10/04/09

Claimant: Appellant (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated November 16, 2009, reference 01, that held she was not available to look for work due to a transportation issue, and benefits are denied the week ending October 24, 2009. A telephone hearing was held on December 28, 2009. The claimant participated. The employer did not participate.

ISSUE:

A further issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds: The claimant was laid off from a long-term assignment by her employer and she filed an unemployment claim that was not protested effective October 4, 2009. An employer representative offered claimant a short-term assignment the week ending October 24 that required her to travel a substantial distance and purchase some special work boots. The claimant declined the assignment due to the expenses and travel. Later, the claimant was offered, accepted and has worked some assignments for the employer located in her community.

The employer did not respond to the hearing notice.

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".

The administrative law judge concludes that the claimant had a good cause to refuse the short-term assignment and no availability disqualification is imposed for the week ending October 24, 2009.

The claimant was laid off after completing a long-term assignment and the employer did not protest the unemployment claim. The claimant had transportation and expense money for a work assignment in her community, but not for a short-term assignment located a substantial distance that would require some equipment expense.

DECISION:

The department decision dated November 16, 2009, reference 01, is reversed. The claimant was able and available for suitable work, and no availability disqualification is imposed the week ending October 24, 2009.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw