

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA M CAMPBELL**  
Claimant

**APPEAL NO. 08A-UI-03305-L**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA SENIOR CARE INC**  
**HOME INSTEAD SENIOR CARE**  
Employer

**OC: 08/05/08 R: 03**  
**Claimant: Respondent (1)**

Iowa Code § 96.4(3) - Able and Available

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 25, 2008, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on April 29, 2008, in Des Moines, Iowa. Claimant participated. Employer participated through Jason Medick, owner.

**ISSUE:**

The issue is whether claimant is able to and available for work effective February 24, 2008.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed as a temporary full-time overnights and days caregiver since August 2007. When hired, claimant lived in Leon and asked Shanna Richardson, recruiter, where there was the most work available and Richardson replied that it was in Boone, so claimant moved there. She had never met Medick before the hearing. She initially primarily worked overnight shifts for a man and when that assignment ended, there was work on Monday and Tuesday days for a woman from 11 a.m. to 7 p.m. She last worked four days ending December 27, 2007 in Carlisle and was told she would be reimbursed for her mileage but was not, so she declined to work out-of-town thereafter and employer representatives Katie and Amy consistently told her that no work was available. Employer did call her at the beginning of January for one shift but that was in Ames for only two hours and the claimant's cost of gas and child care would not make it worthwhile to work that short time. Claimant did make accommodations to her child care so she could be available for more hours, but again no work was forthcoming in spite of four advertisements in the Boone Shopping News on March 11, 18, 25, and April 1, 2008 to hire for non-medical companionship, part-time, days, evenings, and weekends. Medick confirmed there is not much work in the Ames and Boone area. There is no written agreement between the parties.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is 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 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Claimant has placed no unreasonable restrictions or other limitation on her employability effective February 24, 2008. Employer simply does not have regular work for her. Accordingly, benefits are allowed.

**DECISION:**

The March 25, 2008, reference 03, decision is affirmed. The claimant is able to work and available for work effective February 24, 2008. Benefits are allowed, provided she is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw