

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY L HOWELL
Claimant

APPEAL NO. 09A-UI-16632-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES**
Employer

**OC: 10/29/09
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Tammy Howell (claimant) appealed a representative's October 29, 2009 decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she removed herself from work with Manpower Temporary Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 10, 2009. The claimant participated personally. The employer participated by Lori Sander, staffing specialist.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits from September 27 through October 10, 2009.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from June 15 through September 22, 2009. She was assigned to work at Winegard Company as a long-term temporary assembly/production worker. The claimant found a position outside of the employer working as a substitute bus driver. She understood that she had to attend unpaid training for the two-week period ending October 10, 2009. On September 28, 2009, the claimant told the employer she could no longer work because of her new position. Continued work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work.

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 24.23(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.

When an employee requests and is granted time off for training, she is considered to be unavailable for work. The claimant requested that she not work because she was training for another job and the employer granted her request. The change in hours was initiated by the claimant. She is considered to be unavailable for work for the two-week period ending October 10, 2009. The claimant is disqualified from receiving unemployment insurance benefits for the two-week period ending October 10, 2009, due to her unavailability for work.

DECISION:

The October 29, 2009, reference 04, decision is affirmed. The claimant was not able to work and available for work for the two-week period ending October 10, 2009. Benefits are denied.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs