

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALQUISHA S CLARK**  
Claimant

**APPEAL NO: 18A-UI-05850-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALWAYS BEST CARE OF THE CEDAR VAL**  
Employer

**OC: 04/29/18**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 17, 2018, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 13, 2018. The claimant participated in the hearing. Tracy Gray, Director, participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time caregiver for Always Best Care of the Cedar Valley from May 24, 2017 to May 17, 2018. On April 18, 2018, the claimant's regular client, for whom she worked 24 hours per week, requested the claimant not return to her home because she was upset with the claimant's work, ability to show up for work, and her inability to perform the job requirements.

On April 16 and April 19, 2018, the claimant sent the employer a message that she was in training with a new agency. On May 1, 2018, she stated she could not work because she had clients with the new agency.

The employer emailed employees the open shift list April 17, April 19, May 3, May 11 and May 14, 2018, and personally texted the claimant May 8, May 9, and May 10, 2018. On April 19 and May 3, 2018, the claimant told the employer she would be in to talk to the employer about what shifts she could pick up but did not show up or call either day. The claimant did not respond to the May 8, 2018, text message but stated she did not have daycare May 9 and May 10, 2018.

The claimant has limited daycare and does not have a driver's license. She was unable to work at the employer's sites in Iowa City and Mount Vernon for example. On May 17, 2018, the claimant sent the employer a text message after the start time of her shift and stated she was quitting her job.

## 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".

Iowa Admin. Code r. 871-24.23(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.

Iowa Admin. Code r. 871-24.23(18) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(18) Where the claimant's availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

The claimant's lack of reliable childcare and lack of transportation are unduly limiting the claimant's availability for work. Accordingly, the claimant is not considered able and available for work within the meaning of the law. Consequently, benefits must be denied.

**DECISION:**

The May 17, 2018, reference 02, decision is affirmed. The claimant is not able to work and available for work effective April 29, 2018. Benefits are denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn