

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELAINE R JOHNSON
Claimant

APPEAL NO. 12A-UI-09558-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMCAST SPECTACOR LP ET AL
Employer

OC: 07/31/11
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated August 6, 2012, reference 02, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 30, 2012. The claimant participated personally. The employer participated by Katie Johnson, human resources manager. The record consists of the testimony of Elaine Johnson and the testimony of Katie Johnson. Official notice is taken of agency records.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides facility management for convention centers and arenas. The claimant was hired on May 1, 2008, as a part-time on-call parking assistant. She is still employed by the employer. She has no guarantee of a certain number of hours and works when needed. Her hours are dependent on what types of services the client needs to be on a particular event.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(27) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following

reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(27) The claimant left rather than perform the assigned work as instructed.

Iowa law states that if an individual's base period wages consist solely of wage credits earned from part-time on-call employment, she is not considered an unemployed person. The claimant's hours may be fewer in the summer, but because her job is an on-call position, she is not eligible for unemployment insurance benefits. Benefits are denied.

DECISION:

The decision of the representative dated August 6, 2012, reference 02, is affirmed. The claimant is not considered an unemployed person and is not eligible for unemployment insurance benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs