

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEANNIE M TEDDER

Claimant

APPEAL 18A-UI-07362-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRAIRIE RIDGE INTEGRATED BEHAVIOR

Employer

OC: 06/03/18

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 3, 2018, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 26, 2018. Claimant participated. Employer participated through Mickey Johnston, Lead Clinical Assistant; Carrie Wagner, Lead Clinical Assistant; Meagen Wentz, Human Resources Specialist and was represented by Amelia Gallager of Equifax/Talx.

ISSUE:

Is the claimant able to and available for work effective June 3, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired on October 18, 2017 to work part time as a clinical assistant. Part time for this employer is 30 hours or less per week. A full time position became available and was offered to the claimant beginning on November 27, 2017. Claimant worked 7:00 a.m. to 7:00 p.m. Friday, Saturday and Sunday of each week. Claimant chose to leave the full time position effective February 12, 2018 because she wanted to spend more time with her children.

Claimant worked part time from February 12, 2018 until June 1, 2018. Claimant is having non work related medical issues with her stomach and abdomen that prevent her from working her regular part-time shifts. At hearing claimant affirmed that she could not work her regular part time hours on a consistent basis because of her personal non-work related health issue. The claimant was offered and accepted on-call status due to her inability to work part-time hours. The employer has part-time hours available for the claimant if she would accept them and work them. Claimant remains an employee on part-time status.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to 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".

Iowa Admin. Code r. 871-24.23(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

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.

The claimant's own testimony was she is not able to work a regular part time schedule of up to 30 hours per week due to her medical issues and her need to be able to spend time with her children. The employer has part time hours available for the claimant during the time periods she has worked for the employer. Under these circumstances, the administrative law judge must determine that the claimant is simply not able to and available for work to the same extent at which she was hired and to the extent that she earned wages during her base period. Accordingly, benefits are denied.

DECISION:

The July 3, 2018, (reference 02) decision is affirmed. The claimant is not able to and available for work effective June 3, 2018. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs