

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIERRA M CANNON
Claimant

MASTERBRAND CABINETS INC
Employer

APPEAL 18A-UI-03933-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/17/17
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 23, 2018, (reference 08) unemployment insurance decision that denied benefits based upon not having child care. The parties were properly notified about the hearing. A telephone hearing was held on April 23, 2018. Claimant participated. Employer opted not to participated according to correspondence from its agent of record.

ISSUE:

Is the claimant able to work and available for work effective March 4, 2018?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's young child was hospitalized from February 23 through March 4, 2018. The child was medically released on Tuesday, April 10. The administrative record reflects that claimant began making at least two work searches effective March 25, 2018. Prior to that week dating back to the additional claim date of March 4, 2018, she made no more than one work search because she wanted to stay home with her child. She has child care consistently available from her sister, who provided child care when claimant was working at Masterbrand Cabinets.

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 from March 4, 2018, but is able to and available for work effective March 25, 2018.

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. 871-24.24(4) provides, in pertinent part:

(4) *Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3).* . . . Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

Iowa Admin. Code r. 871-24.23 provides:

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

(27) Failure to report on a claim that a claimant made any effort to find employment will make a claimant ineligible for benefits during the period. Mere registration at the workforce development center does not establish that a claimant is able and available for suitable work. It is essential that such claimant must actively and earnestly seek work.

An individual claiming benefits must be able to work, available for work, and if unemployed, actively and earnestly seeking work. Even though claimant did have child care available, she chose not to seek work after her child was released from the hospital until the week of March 25, 2018. Thus, she did not make herself available for work from March 4, 2018, to March 24, 2018. As of March 25, 2018, claimant is considered able to and available for work since she began making adequate work searches that week while child care continued to be available.

DECISION:

The March 23, 2018, (reference 08) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work from March 4, 2018, to March 24, 2018. She is able to work and available for work effective March 25, 2018, and benefits are allowed as of that date. The benefits withheld effective March 25, 2018, shall be released to claimant, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs