

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAMELA L FRANA**  
Claimant

**NORTHEAST IOWA SERVICE LLC**  
Employer

**APPEAL 16A-UI-12038-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/02/16**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 3, 2016, (reference 03) unemployment insurance decision that denied benefits based upon her availability for work. The parties were properly notified about the hearing. A telephone hearing was held on November 28, 2016. Claimant participated personally and through witness Warren Steffen. Employer participated through owner Chad Harvey.

**ISSUE:**

Is the claimant able to work and available for work effective October 2, 2016?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's employment ended on September 22, 2016. She filed a claim for benefits with an effective date of October 2, 2016.

Claimant's boyfriend owns a NAPA auto parts store. The store does not open until 2:30 p.m. After claimant's separation from employment, she began spending approximately 20 hours per week at the store. Claimant does not have a computer with Internet access at home. Claimant spent time at the store using the computer to apply for jobs. While present at the store, claimant also answered the phone even though it was not open. On occasion, claimant helped a customer even when the store was not open. Claimant was not paid for her services at the store.

Claimant was able to and available to accept a job offer at any time during this time period. Claimant was searching for bookkeeping work.

Claimant accepted and began working in a new position on approximately November 21, 2016, and no longer spends any significant amount of time at the store.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective October 2, 2016.

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".

In this case, claimant had no medical restriction or other limitation on her employability effective October 2, 2016. Although claimant may have answered the phone while she was incidentally present at her boyfriend's store, there is no evidence to show that she was being paid for her work, the store was open, or that her boyfriend was actually relying on her to work during this time period. The store was closed until 2:30 p.m. each day. Claimant was searching for work and did not restrict her availability for work due to her presence at the store. In fact, when claimant was offered new employment, she promptly accepted it and is no longer present at the store for any significant time period. Claimant has established she was available for during the time period in question as required by the law.

## **DECISION:**

The November 3, 2016, (reference 03) decision is reversed. The claimant is able to work and available for work effective October 2, 2016. Benefits are allowed.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

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